

**NO. C-3554-21-I**

**P.G. AND M CONSULTING  
SERVICE, INC**

**V.**

**PADEL GROUP, LLC**

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**IN THE DISTRICT COURT**

**398<sup>TH</sup> JUDICIAL DISTRICT**

**HIDALGO COUNTY, TEXAS**

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**PLAINTIFF’S BRIEF IN OPPOSITION TO DEFENDANT’S MOTION TO TRANSFER  
VENUE**

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**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES**, P.G. and M. Consulting Service, Inc, Plaintiff and states:

1. A contested venue hearing was held in this case on April 11, 2022.
2. On April 6, 2022, Plaintiff filed a motion for leave of court to file a response.
3. On April 8, 2022, Defendant filed a resistance to such motion and urged the court to deny the motion for leave.
4. At the hearing on April 11, 2022, Plaintiff counsel orally withdrew its motion for leave, and thus a hearing was held pursuant to Rule 87 of the Texas Rules of Civil Procedure.

**VENUE LAW**

5. “In Texas, the plaintiff has the right to choose venue in the first instance.” *Moveforfree.com, Inc. v. David Hetrick, Inc.*, 288 S.W.3d 539, 541 (Tex. App. 2009); *In re Masonite Corp.*, 997 S.W.2d 194, 197 (Tex.1999) (orig.proceeding) (“A plaintiff has the first opportunity to fix venue in a proper county by filing suit in that county.”).
6. Plaintiff notes that Defendant has not argued, either in its original Answer and Motion to Transfer Venue or its Brief in Support of its Motion to Transfer Venue, that any mandatory venue provisions apply to the case at bar. Thus, consistent with Defendant’s own framing

of the issue, the only question is whether venue is proper in Hidalgo County pursuant to the permissive General Venue Rule.

7. The General Venue Rules provides that “all lawsuits shall be brought: (1) in the county in which all or a substantial part of the events or omissions giving rise to the claim occurred; (2) in the county of defendant's residence at the time the cause of action accrued if defendant is a natural person; (3) in the county of the defendant's principal office in this state, if the defendant is not a natural person; or (4) if Subdivisions (1), (2), and (3) do not apply, in the county in which the plaintiff resided at the time of the accrual of the cause of action.” Tex. Civ. Prac. & Rem. Code Ann. § 15.002(a).
8. If a defendant objects to the plaintiff's venue choice and properly challenges that choice through a motion to transfer venue, then the question of proper venue is raised. *Wichita County v. Hart*, 917 S.W.2d 779, 781 (Tex.1996); *see* TEX.R. CIV. P. 86(3), 87(2)(b).
9. In its motion to transfer venue, a defendant must specifically deny the venue facts in the plaintiff's petition; if not, they are taken as true. Tex. R. Civ. P. 87(3)(a).
10. Once the defendant has specifically denied the plaintiff's venue facts, then the plaintiff is required to make prima facie proof of its venue facts. *Id.*
11. When ruling on a motion to transfer venue, the trial court must assume the pleadings are true and decide based on the pleadings and affidavits submitted by the parties. Tex. R. Civ. P. 87(3)(c).
12. Venue questions are to be decided based on the “facts existing at the time the cause of action that is the basis of the suit accrued.” Tex. R. Civ. Prac. & Rem. Code Ann. § 15.006.
13. If the plaintiff adequately pleads and provides prima facie proof that venue is proper in the county of suit, then the trial court must not transfer the case. Tex. R. Civ. P. 87(3)(c); *see*

*Wilson*, 886 S.W.2d at 261 (“Together, Rule 87(3)(c) and section 15.063(1) require that a lawsuit pleaded and proved to be filed in a county of proper venue may not be transferred.”).

**ARGUMENT: WITHOUT CONSIDERING ANY ADDITIONAL PLEADINGS,  
VENUE IS PROPER IN HIDALGO COUNTY**

***i. Plaintiff has the Right to Choose a Venue, Even if Venue is Proper in More Than One County.***

14. As a first principle of this Court’s venue analysis, Plaintiff would like to re-assert the proposition that “[i]n Texas, the plaintiff has the right to choose venue in the first instance.”

*Moveforfree.com, Inc.*, 288 S.W.3d at 541.

15. This is the case even though venue may be proper in more than one county under the venue rules. *See, e.g., GeoChem Tech Corp. v. Verseckes*, 962 S.W.2d 541, 544 (Tex.1998). “In general, plaintiffs are allowed to choose venue first, and the plaintiff’s choice of venue cannot be disturbed as long as the suit is initially filed in a county of proper venue.” *In re Henry*, 274 S.W.3d 185, 190 (Tex. App. 2008).

16. Plaintiff re-asserts this first principle because Defendant argues as though the Court must grant its motion to transfer venue if venue is also proper in Bexar County. However, this is not the test.

17. Thus, Defendant is simply wrong when it asserts that each alternative listed in Tex. Civ. Prac. & Rem. Code Ann. § 15.002(a) “evidences that venue is mandatory in Bexar County, Texas.” (*Defendant’s Brief in Support of Motion to Transfer Venue*, at p. 2). Even if Bexar County is a proper venue, that in no way entails that Hidalgo County is also not a proper venue.<sup>1</sup>

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<sup>1</sup> This is evident also from the very structure of the text of Tex. Civ. Prac. & Rem. Code Ann. § 15.002(a), which is phrased in the alternative.

18. Furthermore, Defendant is wrong to imply that only one county can fall under any particular subsection of § 15.002(a). (*See, e.g., Defendant's Brief in Support of Motion to Transfer Venue*, at p. 2) (“CPRC 15.002(a)(1) dictates that a lawsuit should be brought in the county in which all or a substantial part of the events or omissions giving rise to the claims occurred.”).
19. Multiple counties may be a proper venue under any particular subsection of § 15.002(a). *See S. Cty. Mut. Ins. Co. v. Ochoa*, 19 S.W.3d 452, 458 (Tex. App. 2000), *on reh'g* (May 11, 2000) (noting that although the general venue rule uses the phrase “in the county,” that “more than one county [may] meet the specific venue requirements of any particular subsection . . .”).
20. Plaintiff alleged that Hidalgo County is a proper venue under Tex. Civ. Prac. & Rem. Code Ann. § 15.002(a)(1). Defendant’s summary denial of Plaintiff’s venue facts consists solely in arguing that a substantial part of the events or omissions giving rise to Plaintiff’s claim occurred in Bexar County. (*Defendant's Original Answer*, at 3).
21. However, such a summary assertion by Defendant does not negate Plaintiff’s venue assertions because “a substantial part of the events or omissions giving rise to a claim may occur in more than one county.” *KW Const. v. Stephens & Sons Concrete Contractors, Inc.*, 165 S.W.3d 874, 879 (Tex. App. 2005).
22. Thus, even where courts find that “a substantial part of the events or omissions giving rise to a claim” occurred in more than one county, “[w]hen the county in which the plaintiff files suit is at least a permissive venue and when no mandatory provision applies, the plaintiff’s venue choice cannot be disturbed. *If the parties’ dispute involves two counties of permissive venue, transferring the case is improper.*” *Id.* at 879 (emphasis added).

**ii. *Venue is Proper Under the General Venue Rule Because All or Substantial Part of the Events or Omissions Giving Rise to the Defendant's Claims Occurred in Hidalgo County.***

23. Civil Practice and Remedies Code section 15.002(a)(1) provides that venue is proper “in the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.” Tex. Civ. Prac. & Rem. Code § 15.002(a)(1).

24. “In assessing venue under section 15.002(a)(1), we analyze whether the evidence shows that the actions or omissions at issue are materially connected to the cause of action.” *Moveforfree.com, Inc.*, 288 S.W.3d at 542.

25. “To determine whether a substantial part of the events or omissions giving rise to the claim occurred in” a particular county, courts “examine the essential elements of [the] claim.” *Killeen v. Lighthouse Elec. Contractors, L.P.*, 248 S.W.3d 343, 348 (Tex. App. 2007).

26. Furthermore, “[c]ontract claims generally accrue in any county where the contract was formed, where it was to be performed or where it was breached.” *Id.*

27. Plaintiff’s original petition includes three claims: breach of contract, suit on sworn account, quantum meruit.

28. All these claims involve agreements between Plaintiff and Defendant, made in Mission, Texas, and work performed in Hidalgo County pursuant to such agreements. As stated in Plaintiff’s Original Petition: venue is proper in Hidalgo County because it is the county “in which all or a substantial part of the events or omissions giving rise to the claim occurred” and it “was the location where the Plaintiff and Defendant met to enter into the contract to perform the work subject of this Cause and where Plaintiff performed the majority of work subject of this cause.” (*Plaintiff’s Original Petition*, p. 2).

29. In short, venue is proper in Hidalgo County because the facts supporting the elements of each of Plaintiff's claim has a material and substantial connection to Hidalgo County.
30. For example, a breach of contract claim requires Plaintiff to show (i) the existence of a contract, (ii) plaintiff's performance, (iii) Defendant's breach, and that (iv) Defendant's breach injured Plaintiff. Because Plaintiff, as pleaded, performs design and consulting work in Hidalgo County and generates her invoices in Hidalgo County, venue is proper in Hidalgo County.
31. This is especially the case with the formation of the contract in Hidalgo County, which is a venue fact that Defendant never specifically denied, because venue is generally proper in a county where a contract is formed. *See Killeen*, 248 S.W.3d at 348.
32. Thus, for all the above reasons, venue is proper in Hidalgo County, and thus the Court "shall not" transfer this case and must retain the suit. *See Tex. R. Civ. P. 87(3)(c)*.
- iii. *Defendant Failed to Specifically Deny Plaintiff's Venue Facts and Thus No Prima Facie Showing is Required Under Tex. R. Civ. P. 87(3)(a)*.**
33. This court must take the above-referenced venue facts as true because they were not specifically denied by Defendant. *Tex. R. Civ. P. 87(3)(a)*.
34. A Plaintiff only has the burden to provide prima facie proof of a venue fact if such fact is specifically denied. *Id.*
35. Although Defendant states that it "specifically denies" (*Defendant's Original Answer*, at 2) Plaintiff's venue facts, this 'specificity' is limited to the following denial: "all work allegedly performed by Plaintiff and all or a substantial part of the events allegedly giving rise to the causes of action in Plaintiff's Original Petition under the alleged Agreement would have occurred or been performed in Bexar County, Texas." (*Id.* at 3).

36. In its Brief, Defendant argues that such statements constitute specific denials sufficient to shift the burden to Plaintiff to provide prima facie proof under the venue rules. (*Defendant's Brief in Support of Motion to Transfer Venue*, at p. 7).
37. However, Defendant's 'specific denial' amounts to no more than quoting the language of Tex. Civ. Prac. & Rem. Code § 15.002(a)(1). This is effectively and functionally a global denial that is not sufficient under Rule 87. *See, e.g., Rodriguez v. Printone Color Corp.*, 982 S.W.2d 69, 71 (Tex. App. 1998) ("We have held that statements such as 'Defendant specifically denies those venue facts pleaded in Plaintiff's Petition' do not constitute a 'specific denial' as required by TEX.R.CIV.P. 87.").
38. A "'specific denial' of a venue fact requires that the fact itself be denied." *Maranatha Temple, Inc. v. Enter. Prod. Co.*, 833 S.W.2d 736, 740 (Tex.App.-Houston [1st Dist.] 1992, writ denied). "In other words, when a plaintiff pleads that 'Defendant X is a foreign corporation with a registered agent in Harris County,' Defendant X, to 'specifically deny' that venue fact, must make a point of denying that it is a foreign corporation with a registered agent in Harris County." *Id.* In short, to deny a venue fact is to assert that such a fact is not the case, or to otherwise negate the fact.
39. Defendant's 'specific denial' is thus not sufficient under Texas law for several of Plaintiff's venue facts, as illustrated below:

PLAINTIFF'S VENUE FACTS	DEFENDANT'S DENIAL	CONCLUSION
<p>Hidalgo County is a county "in which all or a substantial part of the events or omissions giving rise to the claim occurred." (<i>Plaintiff's Original Petition</i>, at p. 2).</p>	<p>"[A]ll work allegedly performed by Plaintiff and all or a substantial part of the events allegedly giving rise to the causes of action in Plaintiff's Original Petition under the alleged Agreement would have occurred or been performed in Bexar County, Texas." (<i>Defendant's Original Answer</i>, at p. 3).</p>	<p>The Court must consider this venue fact as true. Tex. R. Civ. P. 87(3)(a). Defendant does not deny or otherwise negate Plaintiff's venue fact that a substantial part the events giving rise to the cause of action occurred in Hidalgo County. Because a substantial part of the events or omissions giving rise to a claim may occur in more than one county, Defendant's assertion does not negate Plaintiff's assertion, both may be true.</p>
<p>"Hidalgo County, Texas was the location where the Plaintiff and Defendant met to enter into the contract to perform the work subject of this Cause." <i>Id.</i></p>	<p><b>NOT DENIED AT ALL</b></p>	<p>Court must consider this fact as true. Tex. R. Civ. P. 87(3)(a).</p>
<p>Hidalgo County is "where Plaintiff performed the majority of work subject of this Cause." <i>Id.</i></p>	<p>"[A]ll work allegedly performed by Plaintiff and all or a substantial part of the events allegedly giving rise to the causes of action in Plaintiff's Original Petition under the alleged Agreement would have occurred or been performed in Bexar County, Texas." (<i>Defendant's Original Answer</i>, at p. 3).</p>	<p>Because Defendant asserts that "all work" performed by Plaintiff was performed in Bexar, this does seem to negate the Plaintiff's assertion that a majority of the work occurred in Hidalgo County.</p>

40. Thus, the Court must consider it true that Hidalgo County is a county “in which all or a substantial part of the events or omissions giving rise to the claim occurred.” (*Plaintiff’s Original Petition*, at p. 2).

41. Furthermore, the Court must consider it as true that the contract at issue was formed in Hidalgo County. Under longstanding law, Hidalgo County is thus a proper venue for Plaintiff’s contract claim. “Contract claims generally accrue in any county where the contract was formed, where it was to be performed or where it was breached.” *Killeen*, 248 S.W.3d at 348.

42. For all the above reasons, and on the basis of Plaintiff’s venue facts which have not been controverted by specific denial, the Court should DENY Defendant’s motion to transfer venue.

***iii. Even if this Court Finds that Defendant Specifically Denied Plaintiff’s Venue Facts, Plaintiff has Provided Sufficient Prima Facie Proof.***

43. “Prima facie proof is made when the venue facts are properly pleaded and an affidavit, and any duly proved attachments to the affidavit, are filed fully and specifically setting forth the facts supporting such pleading.” Tex. R. Civ. P. 87(3)(a).

44. “For trial judges, the parties’ pleadings on file at the venue hearing are conclusive on the issues of the existence of a cause of action. *This means that for venue purposes, a trial court is forced to take pleadings at face value* and may find venue proper in the county of suit as long as the cause of action alleged . . . will permit venue in that county.” *Acker v. Denton Pub. Co.*, 937 S.W.2d 111, 116 (Tex. App. 1996) (citation omitted) (emphasis added).

45. Plaintiff, asserts that the original Affidavit filed in its Petition, along with the face of the Petition itself and the invoices submitted as an exhibit, are sufficient prima facie proof under the Rules.
46. Plaintiff, in its Petition, pleads the following facts which bear on proper venue: “[i]n September of 2017 the Plaintiff and Defendant met in Plaintiffs’ office in Mission, Hidalgo County Texas to discuss and enter into an agreement for Plaintiff to perform services for the Defendant[;]” Plaintiff performed the work from her place of business which is located in Mission Texas; and Defendant failed to pay causing Plaintiff monetary injury in Hidalgo County. (*Id.* at 3-9).
47. Furthermore, the invoices provided along with the Affidavit of Patricia Domit provide that Plaintiff’s mailing address as 3805 Plantation Blvd Mission, Texas 78572. *See, e.g., Killeen*, 248 S.W.3d at 348 (finding venue proper for a claim of breach of settlement agreement in the county where the demand for payment was prepared and additional documents were generated).
48. For all the above reasons, this Court should find that Plaintiff has met its burden of providing the Court prima facie proof of its venue facts and DENY Defendant’s motion to transfer venue.

**ARGUMENT: EVEN IF THE COURT WERE TO CONSIDER ADDITIONAL PLEADINGS, VENUE IS PROPER IN HIDALGO COUNTY**

49. Plaintiff re-asserts its claim that the Court must make its venue determination of the basis of the pleadings filed with the Court prior to the venue hearing, including Plaintiff’s Original Petition and the affidavit and exhibits filed with it, as well as Defendant’s Original Answer and Motion to Transfer Venue. *See* Tex. R. Civ. P. 87(3)(b) (“The court shall determine the motion to transfer venue on the basis of the pleadings, any stipulations made

by and between the parties and such affidavits and attachments as may be filed by the parties in accordance with the preceding subdivision of this paragraph 3 or of Rule 88.”).

50. In fact, *Defendant itself argued that this Court should deny any late evidence to supplement the record for the venue hearing. (Defendant’s Response to Motion for Leave, at p. 2).*

51. However, should the Court consider additional pleadings, Plaintiff has submitted an affidavit by Patricia Domit to support its venue fact that a substantial part of the events or omissions giving rise to the claims occurred in Hidalgo County. (*Affidavit of Patricia Domit*, filed on April 11, 2022).

52. As this Affidavit shows, Plaintiff and Defendant entered into a contract in Hidalgo County, the work was performed in Hidalgo County, and fact witnesses relevant to Plaintiff’s claims reside in Hidalgo County.

53. Furthermore, should the Court consider additional evidence for venue purposes, Plaintiff would submit the following:

- Venue Exhibit 1 – Copies of the Board Meeting of Plaintiff entity, starting before the formation of the contract in September 2017 until as recently as January 2022, showing that these Board Meetings have occurred at “3805 Plantation Grove Blvd., Suite D, Mission, Texas 78572.”
- Venue Exhibit 2 – Copy of Bank Account Summary for Plaintiff, dated June 2018, showing that its business address is listed as “3805 Plantation Grove Blvd Ste D, Mission, Texas 78572.” (*See Venue Exhibit 2, at p. 11).*

54. Thus, should the Court consider additional pleadings, including the Affidavit filed on April 11, 2022, and Venue Exhibits 1 and 2, Plaintiff has satisfied its burden to provide this Court prima facie proof of its venue facts, and that a substantial part of the events or omissions

giving rise to Plaintiff's claims occurred in Hidalgo County, notwithstanding any contrary allegations by Defendant. "Prima facie proof is not subject to rebuttal, cross-examination, impeachment or even disproof." *See Ruiz v. Conoco, Inc.*, 868 S.W.2d 752, 757 (Tex. 1993) ("Prima facie proof is not subject to rebuttal, cross-examination, impeachment or even disproof.").

### **REPLY TO DEFENDANT'S POST-HEARING BRIEF**

55. Defendant has now more specifically denied some of the venue facts in Plaintiff's petition in its post-hearing brief, e.g., it asserts that Plaintiff is "fabricating" the two major venue facts supporting maintaining the case in Hidalgo County: that the contract at issue was formed in Hidalgo County and that the substantial portion of the work done was performed in Hidalgo County. (*Defendant's Brief in Support of Motion to Transfer Venue*, at p. 1). This is the first time that Defendant has asserted that these claims were fabricated, and that Plaintiff was "venue shopping."
56. Even if the Court were to expand the record and consider Defendant's new denials and exhibits, they are still insufficient to support its motion to transfer venue. Defendant, although previously calling the formation contract claim fabricated, still does not allege that such a contract was not formed in Hidalgo County or otherwise deny the existence of such a contract or quasi-contract. (*Id.* at 2-3).
57. Defendant does not even deny the fact that Plaintiff's design and consulting work was performed in Hidalgo County. Defendant simply points to the fact that "[t]he entirety of the work that Plaintiff allegedly completed *was strictly for 4927 Woodstone Dr., San Antonio, Texas 78230.*" (*Id.* at 3). Despite the wording however, even this denial is

consistent with Plaintiff's set of venue facts: Plaintiff performed work *in Hidalgo County for a property located at 4927 Woodstone Dr., San Antonio, Texas 78230.*

58. Defendant, *for the first time*, now claims that Plaintiff's claims are completely fabricated and that the Court should transfer venue because of another lawsuit involving a separate entity, and separate arbitration proceedings. (*Id.* at p. 4-6).
59. Defendant is asking this Court essentially to review the merits of Plaintiff's claims in a motion to transfer venue. However, this confuses Plaintiff's burden under the venue rules, even once the burden has shifted to show prima facie proof.
60. Plaintiff is under no burden to reach or otherwise preview the merits of its claims. *Killeen*, 248 S.W.3d at 349 ("The existence of a cause of action is immune from challenge at the venue hearing."); *see* Tex. R. Civ. P. 87(2)(b) ("It shall not be necessary for a claimant to prove the merits of a cause of action, but the existence of a cause of action, when pleaded properly, shall be taken as established as alleged by the pleadings."); Tex. R. Civ. P. 87(3)(a) ("When a venue fact is specifically denied, the party pleading the venue fact must make prima facie proof of that venue fact; provided, however, that *no party shall ever be required for venue purposes to support by prima facie proof the existence of a cause of action or part thereof*, and at the hearing the pleadings of the parties shall be taken as conclusive on the issues of existence of a cause of action.") (emphasis added).
61. This Court should refer to the facts set out in *Killeen v. Lighthouse Elec. Contractors, L.P.* for further guidance. In *Killeen*, plaintiff sued defendant for breach of a settlement agreement based on an underlying contract between the parties. The Defendant in *Killeen*, however, argued "that because he never entered into a contract with Lighthouse, venue

could not be based on a contract that did not exist and to which he was never a party.”

*Killeen*, 248 S.W.3d at 348. As the Court then noted:

However, this assertion that no breach of contract could exist runs counter to Rule 87(3)(a) which provides: When a venue fact is specifically denied, the party pleading the venue fact must make prima facie proof of that venue fact; provided, however, that no party shall ever be required for venue purposes to support by prima facie proof the existence of a cause of action or part thereof, and at the hearing the pleadings of the parties shall be taken as conclusive on the issues of existence of a cause of action. The existence of a cause of action is immune from challenge at the venue hearing. Lighthouse’s pleadings set forth a cause of action for breach of the settlement agreement. *For purposes of venue, Killeen cannot challenge the existence of the contract.*

*Id.* at 348-49 (cleaned up) (emphasis added).

62. For all the above reasons, this Court should DENY Defendant’s Motion to Transfer Venue.

This Court should not be tempted by the framing of Defendant’s arguments to attempt to reach the merits of Plaintiff’s claims, e.g., by delving into the proposed evidentiary support provided along with its post-hearing brief.<sup>2</sup>

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<sup>2</sup> In fact, none of the proposed evidentiary support provided by Defendant along with its brief has any relevant to Plaintiff’s venue facts. Defendants Exhibits A through D seek only to show that Plaintiff entity has contact with Bexar County, e.g., its registered agent is located in Bexar County. Defendant, however, nowhere provides any argumentation as to how such exhibits are relevant to the Court’s venue determination. In particular, without waiving objection, even if the Court were to take these exhibits as true, they have no bearing as to whether or not Hidalgo County is a county “in which all or a substantial part of the events or omissions giving rise to the claim occurred.” Tex. Civ. Prac. & Rem. Code § 15.002(a)(1). Furthermore, Defendant’s Exhibits E through F all relate to the arbitration issue. However, again, this has no bearing on the venue facts presented by Plaintiff, and unfairly ask Plaintiff to reach the merits of its claims, which is not to be done at a venue hearing. *Killeen*, 248 S.W.3d at 349 (“The existence of a cause of action is immune from challenge at the venue hearing.”). Lastly, Defendant’s Exhibit H is offered in support of Defendant’s objection to any late-filed affidavit. Plaintiff reminds the Court that it filed a motion for leave to file a late response and/or affidavits. Defendant itself resisted this motion. Plaintiff orally withdrew its motion. At the hearing, Plaintiff’s counsel stated that it would submit its Affidavit to be considered by the Court in addition to the exhibits to be filed by Defendant. The Court may permit, as requested, Defendant to file controverting affidavits, but it need not. There is ample evidence before this Honorable Court to deny Defendant’s motion absent the late-filed affidavit.

## CONCLUSION

Plaintiff has thoroughly shown that venue is proper in Hidalgo County under Tex. Civ. Prac. & Rem. Code § 15.002(a)(1). Plaintiff has shown that Defendant never particularly denied its venue allegations that a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in Hidalgo or that the contract was formed in Hidalgo.

Alternatively, should the Court find such specific denials were made, Plaintiff has met its burden of showing prima facie proof through the face of its Original Petition, accompanying affidavit and exhibit of invoices.

Should the Court decide to consider the pleadings recently filed by both parties, Plaintiff's case is even stronger: the new affidavit of Patricia Domit, the copy of the board meeting minutes, and a copy of Plaintiff's bank account information all support venue in Hidalgo County.

And again, Plaintiff reminds the Court that venue may be proper in this County even if venue is also proper in Bexar County, and Plaintiff has the first opportunity to fix venue in any proper county, and "[w]hen the county in which the plaintiff files suit is at least a permissive venue and when no mandatory provision applies, the plaintiff's venue choice cannot be disturbed. *If the parties' dispute involves two counties of permissive venue, transferring the case is improper.*" *KW Const. v. Stephens & Sons Concrete Contractors, Inc.*, 165 S.W.3d 874, 879 (Tex. App. 2005).

## PRAYER

**WHEREFORE**, Plaintiff respectfully requests that this Honorable Court DENY Defendant's Motion to Transfer Venue.

Respectfully Submitted,

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*/s/ Jonathon Andrew Muñoz*

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**Certificate of Service**

I certify that on April 12, 2022, a true copy of this document was served in accordance with rule 21a of the Texas Rules of Civil Procedure on all parties.

*/s/ Jonathon Andrew Muñoz*

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