

Should Plaintiff have ‘additional jurisdictional facts’ she would like to show the Court, the proper procedure for her would appear to be to amend her response in opposition to the fully briefed Motion to Dismiss, rather than the dilatory tactic of seeking to amend the complaint.

Furthermore, Plaintiff has demonstrated inexcusable delay in attempting to amend her complaint to add ‘additional jurisdictional facts.’ Because Plaintiff has not attached a copy of her proposed amended complaint, the Court must divine the potential contents of the proposed amendment and specifically how, if at all, it would relate to the core facts of the pending action. Nevertheless, Plaintiff wishes to amend her complaint to allege, among other things, that Stern telephoned her in Texas, a fact she surely knew of at the time she filed her original complaint.

Plaintiff also wishes to amend her complaint to add allegations—unsupported by the record developed through Plaintiff’s months of jurisdictional discovery—that Stern, through his sister, directed alleged Texas conspirators. The emails attached to Plaintiff’s Motion in alleged support of this contention, which notably do not support the propositions Plaintiff represents to the Court that they support, are dated many months before Plaintiff filed her complaint. There simply exists no justifiable reason for the Plaintiff’s delay in attempt to plead ‘facts’ known to her at the time she filed her original complaint that will ultimately have no bearing on jurisdiction. See Williams v. Simmons Co., 185 F. Supp.2d 665, 672 (N.D. Tex. 2001) (“[I]n exercising its discretion to deny leave to amend a complaint, a trial court may properly consider (1) an ‘unexplained delay’ following an original complaint, and (2) whether the facts underlying the amended complaint were known to the party when the original complaint was filed.”); see also Southmark Corp. v. Schulte Roth & Zabel, 88 F.3d 311, 316 (5th Cir. 1996) (holding that denial of a motion for leave to amend pleadings was warranted where the moving party “sought

CERTIFICATE OF SERVICE

This is to certify that on this 4th day of April, 2008, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to the following attorneys of record in this case:

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