

433C

NO. 08-05896

ELOISA GOMEZ TELKAMP ,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
v.	§	DALLAS COUNTY, TEXAS
	§	
STEIN MART, INC., LESLIE SULLIVAN,	§	
SHELLY FISHER MARTIN,	§	
	§	
Defendants.	§	68 TH JUDICIAL DISTRICT

ORDER DETERMINING PLAINTIFF ELOISA GOMEZ TELKAMP A VEXATIOUS LITIGANT, REQUIRING SECURITY UNDER §11.051, CIVIL PRACTICE AND REMEDIES CODE, AND OTHER RELIEF

On the 22nd day of September, 2008 came on for hearing the moving Defendants' Amended Motion for Order Determining Plaintiff a Vexatious Litigant, Requesting Security and Other Relief. Moving Defendants appeared through counsel and announced ready. Plaintiff Eloisa Gomez Telkamp ("Telkamp") appeared *pro se*.

The Court takes notice that the Defendants' Motion under consideration herein was originally filed on July 7, 2008 and Defendants' Amended Motion was filed on August 1, 2008 and both documents appear in the records of this Court and the Court takes judicial notice of their filing and content.

After considering the evidence and argument of counsel and Plaintiff, Eloisa Gomez Telkamp, *pro se*, the Court is of the opinion that the Amended Motion on file herein should be in all things granted.

The Court finds that Eloisa Gomez Telkamp ("Telkamp") is a Plaintiff who commences or maintains a litigation as that term is defined in §11.001 (5) of the Civil Practice and Remedies Code (CPRC) and that Defendants herein are entities and/or persons against whom Telkamp commences

or maintains or seeks to commence or maintain a litigation as that term is defined in §11.001 (1).

The Court finds that Defendants' Motion under Chapter 11 of the Civil Practice and Remedies Code was timely commenced in accordance with the provisions of §11.051 (1) CPRC.

The Court finds that there is no reasonable probability that Telkamp will prevail in her current Litigation in case no. 08-05896.

The Court further finds that in the seven year period immediately preceding the date the Defendants first filed their Motion under §11.015 (July 8, 2001 through July 8, 2008), Telkamp has commenced, prosecuted or maintained in propria persona at least five Litigations other than in a small claims court that have been (1) finally determined adversely to Telkamp; and/or have been determined by a trial or appellate court to be frivolous or groundless under state or federal law or rule of procedure.

In addition, after Litigation has been finally determined against Telkamp, Telkamp repeatedly relitigated or attempted to relitigate, in propria persona the validity of the determination against the same defendants as to whom the litigation was finally determined and/or the cause of action, claims, controversy and issues of fact or law determined or concluded by the final determination against the same defendants as to whom the litigation was finally determined.

Attached to this order as Exhibit "A" is the Litigation as that term is defined §11.001 (2), CPRC that forms the basis of the Court's findings that Telkamp is a vexatious litigant under §11.054 (1) and §11.054 (2) CPRC.

The Court finds with respect to each litigation listed that Telkamp commenced, prosecuted or maintained in propria persona the Litigation, that the litigation was finally determined adversely to Telkamp, and/or it was determined by a trial or appellate court that the Litigation was frivolous

or groundless under state or federal law or rules of procedure.

The Court further finds that in the Litigation, Telkamp relitigated or attempted to relitigate, in propria persona, the validity of the determinations in the prior litigation against the same Defendants as to whom the litigation was finally determined and/or repeatedly relitigated the cause of action, claims, controversy and the issues of fact or law determined in the litigation or concluded by the final determination against the same defendants to whom the litigation was finally determined.

Accordingly, by this Order, the Court declares Plaintiff Eloisa Gomez Telkamp to be a vexatious litigant.

Under the provisions of §11.055, CPRC, the Court orders that Telkamp shall be required to furnish security for the benefit of the moving Defendants herein. The Court orders that the security reasonably necessary to assure payment to the moving Defendants of the moving Defendants' reasonable expenses incurred in or in connection with the Litigation commenced, caused to be commenced or maintained, or caused to be maintained by Telkamp, including costs and attorneys' fees is \$30,000.00.

The Court finds that Telkamp has consistently filed with this Court sworn Affidavits of pauper status and has maintained that she has no assets sufficient to pay the filing fees to initiate actions. Based on such representations and evidence presented herein the Court orders that reasonable security shall consist of cash to be paid in the registry of the Court of \$30,000.00 for the benefit of the Defendants herein, Stein Mart, Inc., Leslie Sullivan and Shelly Fisher-Martin, and each of them, or a bond filed with the Clerk of the Court in favor of said Defendants herein in the amount of \$30,000.00 undertaken by persons who demonstrate ownership of liquid and unencumbered assets, non-exempt under any state or federal law of at least the amount of \$60,000.00 payable for

the benefit of the Defendants herein, and each of them, subject only to Telkamp's prevailing in a final determination of her claims as set forth in Telkamp's bill of review on file herein. Before such bond shall be accepted, it is ordered that an application for approval of said bond shall be made by the applicant thereto with notice to Defendants herein and at such hearing the Court shall determine the adequacy of the undertaking and consider any objections of Defendants to the proposed undertaking.

It is ordered that the security required herein shall be given by September 19, 2008. Should Telkamp fail to provide the required security herein by September 19, 2008, Telkamp's Litigation (Cause No. 08-05896, *Eloisa Gomez Telkamp v. Stein Mart, Inc., Leslie Sullivan and Shelly Fisher-Martin*) shall be dismissed.

It is further ordered that if this Litigation is dismissed on the merits after Telkamp provides the requisite security ordered herein, then the Defendants, and each of them, shall have recourse to the security furnished under this order.

The Court further orders that under §11.101 CPRC that Telkamp is prohibited from filing, in propria persona, any new litigation in a court in this state without permission of a local administrative judge and only if it appears to that judge that the litigation: (1) has merit; and (2) has not been filed for the purpose of harassment or delay and moreover, the local administrative judge may condition the permission on furnishing of security for the benefit of the defendants in an amount sufficient to cover the Defendants' reasonable expenses incurred in or in connection with the litigation including the Defendants' cost and attorney's fees.

In this regard, it is ordered that the Clerk of a court may not file litigation presented by Telkamp without obtaining an order from the local administrative judge permitting the filing as

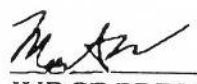
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required herein.

It is ordered that the Clerk of the Court hereunder shall provide the office of Court Administration of the Texas Judicial System a copy of this pre-filing order as required by §11.104, CPRC.

IT IS SO ORDERED.

SIGNED THIS 23 DAY OF SEPTEMBER, 2008.



JUDGE PRESIDING

NO. 08-5896

ELOISA GOMEZ TELKAMP ,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
v.	§	DALLAS COUNTY, TEXAS
	§	
STEIN MART, INC., LESLIE SULLIVAN,	§	
SHELLY FISHER MARTIN,	§	
	§	
Defendants.	§	68 TH JUDICIAL DISTRICT

EXHIBIT "A" TO ORDER DETERMINING PLAINTIFF ELOISA GOMEZ TELKAMP A VEXATIOUS LITIGANT, REQUIRING SECURITY UNDER §11.051, CIVIL PRACTICE AND REMEDIES CODE, AND OTHER RELIEF

1. Case No. 3:00-CV-00340-D; *Eloisa Gomez Telkamp v. Stein-Mart, Inc. and Leslie Sullivan*; In the United States District Court for the Northern District of Texas, Dallas Division
 - A. Complaint (February 14, 2000)
 - B. Findings, Conclusions and Recommendation of the United States Magistrate Judge (February 5, 2002)
 - C. Order Adopting Magistrate's Findings, Conclusions and Recommendation (February 27, 2002)
 - D. Judgment of Dismissal with Prejudice (February 27, 2002)

2. Cause No. 02-03787; *Eloisa Gomez Telkamp v. Stein Mart Inc., Leslie Sullivan, Shelly Fisher Martin*; In the 68th Judicial District Court, Dallas County, Texas
 - A. Petition (April 26, 2002)
 - B. Defendants' Motion for Summary Judgment and Authorities (November 19, 2002)
 - C. Plaintiff's Motion for Summary Judgment (December 17, 2002)
 - D. Defendants' Response to Plaintiff's Motion for Summary Judgment, Counter-Motion for Summary Judgment and Brief In Support Thereof (January 16,

2003)

- E. Plaintiff's Reply to Defendants' Response to Plaintiff's Motion for Summary Judgment and Plaintiff's Response to Defendants' Counter-Motion for Summary Judgment and Brief In Support Thereof (February 7, 2003)
 - F. Brief In Support Of Plaintiff's Reply to Defendants' Response to Plaintiff's Motion for Summary Judgment and Plaintiff's Response to Defendants' Counter-Motion for Summary Judgment and Brief In Support Thereof (February 10, 2003)
 - G. Judgment (February 28, 2003)
 - H. Docket Sheet
 - I. Judge's Memo (October 23, 2003)
 - J. Plaintiff's Notice of Appeal (February 24, 2004) and Amended Notice of Appeal, Dallas (March 10, 2004)
 - K. Memorandum Opinion (June 9, 2004). Court of Appeals, Dallas, No. 05-04-00244-D
3. Case No. 05-03-01614-CV; *In re Eloisa Gomez Telkamp, Relator*, Court of Appeals of Texas, Dallas
 - A. Petition for Writ of Mandamus
 - B. Memorandum Opinion (November 25, 2003)
 4. Case No. 05-04-00839-CV; *In re Eloisa Gomez Telkamp, Relator*, Court of Appeals of Texas, Dallas
 - A. Petition for Writ of Mandamus
 - B. Memorandum Opinion (June 28, 2004)
 5. Case No. 04-0668; *In re Eloisa Gomez Telkamp, Relator*, In the Supreme Court of Texas
 - A. Petition for Writ of Mandamus (July 26, 2004)
 - B. Order Denying Petition for Writ of Mandamus (September 10, 2004)

- 6. Case No. 05-01926-C; *Eloisa Gomez Telkamp v. Stein Mart Inc , Leslie Sullivan, Shelly Martin, Rebecca Singer, Judge Gary Hall, Lenetta Jackson Williams, Felicia Williams, Laura Nutting*; in the 95th Judicial District Court, Dallas County, Texas, including those records transferred into this proceeding from the 416th District Court of Collin County, Texas and the 68th District Court of Dallas County, Texas.
 - A. Plaintiff's Original Petition (February 28, 2005)
 - B. Affidavit of Timothy A. Duffy in Opposition to the Plaintiff's Motion for Summary Judgment Against Defendants Stein Mart, Inc And Rebecca Singer (January 10, 2005)
 - C. Response of Defendant Stein Mart Inc., Rebecca Singer, Leslie Sullivan, and Shelly Martin to Plaintiff's Motion for Summary Judgment and Motion for Leave to Amend and Consolidate Plaintiff's Motion for Summary Judgment Et. Al., Defendants' Counter-motion for Summary Judgment and Motion for Sanctions Against Plaintiff (May 6, 2005)
 - D. Plaintiff's Second Amended Petition (May 19, 2005)
 - E. Order Granting Motion for Summary Judgment of Defendant Stein Mart, Inc., Rebecca Singer, Leslie Sullivan and Shelly Martin (July 14, 2005)
 - F. Docket Sheet
 - G. Memorandum Opinion (August 17, 2006) Court of Appeals, Dallas No 05-05-01408-CV

- 7. Case No. 05-05-01063-CV; *In re Eloisa Gomez Telkamp, Relator*, In the Fift District Court of Appeals at Dallas
 - A. Petition for Writ of Mandamus (August, 2005)
 - B. Memorandum Opinion (August 18, 2005)

- 8. Case No. 3:07-CV-01628-K; *Eloisa Gomez Telkamp v. Stein Mart, Inc., Timothy Duffy, Karen Johnson, individually and in her official capacity as Judge of the 95th District Court, Linda Thomas, individually and in her official capacity as Chief Justice of the 5th District Court of Appeals, Amos Mazzant, Joseph Morris, Michael O'Neill, Kerry Fitzgerald, Molly Francis, Carolyn Wright, Elizabeth Lang-Miers, individually and in their official capacities as Justices of the 5th District Court of Appeals*; In the United States District Court for the Northern District of Texas, Dallas Division
 - A. Verified Complaint (September 25, 2007)

- B. Findings and Recommendations of the United States Magistrate Judge (December 5, 2007)
 - C. Order Accepting Findings and Recommendations (December 17, 2007)
 - D. Judgment of Summary Dismissal (December 17, 2007)
9. Cause No. 02-03787-C; *Eloisa Gomez Telkamp v. Stein Mart, Inc., Leslie Sullivan, Shelly Fisher Martin*; In the 68th Judicial District Court, Dallas County, Texas
- A. Motion to Reinstate and Motion for Entry of Summary Judgment (February 11, 2008)
 - B. Order Denying Motion to Reinstate (March 10, 2008)
 - C. Plaintiff's Motion for Rehearing of Plaintiff's Motion to Reinstate and Motion for Entry of Summary Judgment (March 11, 2008)
 - D. Order Denying Motion for Rehearing (March 31, 2008)
10. Case No. 08-5896; *Eloisa Gomez Telkamp v. Stein Mart, Inc., Leslie Sullivan, Shelly Fisher Martin*; In the 68th Judicial District Court, Dallas County, Texas
- A. Plaintiff's Bill of Review (July 7, 2008)