

CAUSE NO. D-1-GN-19-003849

<b>YEVGENIA SHOCKOME, et al</b>	§	<b>IN THE DISTRICT COURT</b>
<b>Plaintiffs,</b>	§	
	§	
<b>v.</b>	§	<b>OF TRAVIS COUNTY, TEXAS</b>
	§	
<b>ROBERT BRENDEL, et al</b>	§	
<b>Defendants.</b>	§	<b>459<sup>TH</sup> JUDICIAL DISTRICT</b>

**ORDER DETERMINING PLAINTIFF A VEXATIOUS LITIGANT**

Before this Court came to be considered Defendant Timothy Shockome’s Motion to Declare Plaintiff Yevgenia Shockome a vexatious litigant pursuant to Tex. Civ. Prac & Rem. Code § 11.54. The Court considered this matter on written submission.

The Court has reviewed the parties’ pleadings, motions, responses, replies, applicable authority, and the Court’s file.

The Court finds that Defendant Timothy Shockome (“Defendant”) filed his Original Answer and Motion to declare Plaintiff Yevgenia Shockome (“Plaintiff”) a vexatious litigant on September 9, 2019. The Court finds that there is no reasonable probability that Plaintiff will prevail in the litigation against the Defendant. The Court finds that in the seven year-period immediately preceding the date Defendant filed his motion, Plaintiff had commenced, prosecuted, or maintained at least five litigations as a pro se litigant other than in small claims court that have been finally determined adversely to Plaintiff as required by 11.054 of the Texas Civil Practice and Remedies Code.

**A. Litigation Decided Adversely to Plaintiff Yevgenia Shockome**

1. *Shockome v. Shockome, No. 04-11-00887-CV, 2013 Tex. App. LEXIS 9064 (Tex. App.—San Antonio July 24, 2013).* Yevgenia Shockome, pro se, argued that amended divorce decree entered by the New York court was in violation of bankruptcy court’s automatic stay; therefore, the provisions contained in the decree relating to children’s health insurance premiums and health care expenses could not be enforced by trial court. The trial court signed an order enforcing the provisions of the New York divorce decree, after which Yevgenia Shockome filed a motion to

recuse the trial judge. The Court of Appeals affirmed both the trial court's judgment and the denial of the motion to recuse the trial judge.

2. Case No. 1:18-CV-936-LY; *Yevgenia Shockome, E.A. and V.A. v. Attorney Roberto Reyes, Attorney Darwin McKee, Attorney Philip Kenny, Timothy E. Shockome, and Does 1 Through 100*. Yevgenia Shockome, pro se, asserted fraud, legal malpractice, conspiracy, DTPA, fraud on the Court, intentional injury, RICO, and various civil rights violations. On May 16, 2019, United States District Judge Lee Yeakel dismissed the case without prejudice and ordered the case closed.
3. Case No. 1:18-CV-936-LY; *Yevgenia Shockome, E.A. and V.A. v. Attorney Roberto Reyes, Attorney Darwin McKee, Attorney Philip Kenny, Timothy E. Shockome, and Does 1 Through 100*. Yevgenia Shockome, pro se, filed a *Motion to Amend the Court's Judgment and Motion for Leave to Amend Complaint*. On July 9, 2019, United States District Judge Lee Yeakel denied Yevgenia Shockome's motion.
4. *Shockome v. Brendel*, No. 03-19-00904-CV, 2020 Tex. App. LEXIS 1726 (Tex. App.—Austin Feb. 28, 2020). On December 10, 2019, Yevgenia Shockome, pro se, filed a *Notice of Appeal* regarding the trial court's order dismissing Defendant Brendel. The Court of Appeals dismissed for lack of jurisdiction.
5. *Shockome v. Cary St. Partners*, No. 03-19-00903-CV, 2020 Tex. App. LEXIS 1728 (Tex. App.—Austin Feb. 28, 2020). On December 10, 2019, Yevgenia Shockome, pro se, filed a *Notice of Appeal* regarding the trial court's dismissal of the Cary Street Defendants. The Court of Appeals dismissed for lack of jurisdiction.
6. *Shockome v. Cowand*, No. 03-19-00902-CV, 2020 Tex. App. LEXIS 1725 (Tex. App.—Austin Feb. 28, 2020). On December 10, 2019, Yevgenia Shockome, pro se, filed a *Notice of Appeal* regarding the trial court's dismissal of Defendant Cowand. The Court of Appeals dismissed for lack of jurisdiction.

## **B. Litigation Plaintiff Permitted to Remain Pending at Least Two Years Without Trial or Hearing**

1. Cause No. D-1-FM-15-007503; *HIO A.S. and V.S., Children*; In the 98<sup>th</sup> Judicial District Court of Travis County, Texas. Yevgenia Shockome, pro se, filed the Original Petition on May 24, 2015. This case was dismissed for want of prosecution on February 7, 2018.

## **C. Litigation Filed and Dismissed by Plaintiff, Yevgenia Shockome**

1. On November 7, 2019, Yevgenia Shockome, pro se, filed two notices of appeal regarding two orders filed in this cause of action on October 24, 2019, specifically: (1) *Order Denying Plaintiff's Motion to Strike Pleadings and for Default Judgment against Cary Street Defendant's*; and (2) *Order Denying Plaintiff's Memorandum of Points and Authorities in Support of Motion to Strike Defendants Brendel, Apostolou, Trivino-Kuvet, Gonzalez, Iverson*. On April 27, 2020, the Texas 3<sup>rd</sup> Court of Appeals issued two mandates in two different cause numbers: (1) No. 03-19-00813-CV; and (2) No. 03-19-00814-CV. Both mandates state that Appellant Yevgenia Shockome

moved to dismiss the appeals of the two October 24, 2019 Orders and granted her motion to dismiss both appeals.<sup>1</sup>

2. Cause No. D-1-GN-19-007363; *Yevgenia Shockome v. Roberto Reyes, Darwin McKee, and Does 1 through 10, Inclusive*; In the 201<sup>st</sup> Judicial District Court of Travis County, Texas. Yevgenia Shockome, pro se, filed the Original Petition on October 23, 2019 asserting consumer fraud, conspiracy, breach of contract. On May 26, 2020, Plaintiff Yevgenia Shockome's claims against Defendant Roberto Reyes were dismissed with prejudice.<sup>2</sup>

The Court finds that Defendant Timothy Shockome's Motion to Deem Plaintiff Yevgenia Shockome a Vexatious Litigant pursuant to Section 11.051 *et seq.* of the Texas Civil Practice and Remedies Code should be GRANTED.

Therefore, it is ORDERED that Plaintiff Yevgenia Shockome is a vexatious litigant as that term is defined by Section 11.054 of the Texas Civil Practice and Remedies Code.

Pursuant to Section 11.055 of the Texas Civil Practice and Remedies Code, Plaintiff Yevgenia Shockome is ORDERED to provide a security in the amount of \$2,500 on or before September 1, 2020 for the benefit of Defendant Timothy Shockome. The security is an undertaking by the plaintiff to assure payment to the moving defendant of the moving defendant's reasonable expenses incurred in or in connection with a litigation commenced, caused to be commenced, maintained, or caused to be maintained by Plaintiff, including costs and attorney fees.

It is further ORDERED that Plaintiff Yevgenia Shockome, having been found to be a vexatious litigant, is subject to a pre-filing order as provided by Section 11.101 of the Texas Civil Practice and Remedies Code and is prohibited from filing, on her own behalf as a pro se litigant, any new litigation

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<sup>1</sup> An action which is ultimately dismissed by the plaintiff with or without prejudice, is nevertheless a burden on the target of the litigation and the judicial system. A party who repeatedly files baseless actions only to dismiss them is no less vexatious than the party who follows the actions through to completion. *Retzlaff v. GoAmerica Communs. Corp.*, 356 S.W.3d 689, 699 (Tex. App.—El Paso 2011).

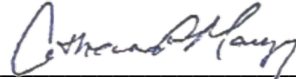
<sup>2</sup> *Id.*

in any state district or statutory county court in Texas, against any party, as provided by Section 11.102 of the Texas Civil Practice and Remedies Code as follows:

PERMISSION BY LOCAL ADMINISTRATIVE JUDGE. (a) A vexatious litigant subject to a profiling order under Section 11.101 is prohibited from filing, pro se, new litigation in a court to which the order applies without seeking the permission of:

- (1) the local administrative judge of the type of court in which the vexatious litigant intends to file, except as provided by Subdivisions; or
- (2) the local administrative district judge of the county in which the vexatious litigant intends to file if the litigant intends to file in a justice or constitutional county court.
- (3) a vexatious litigant subject to a pre-filing order under Section 11.101 who files a request seeking permission to file litigation shall provide a copy of the request to all defendants named in the proposed litigation.

SIGNED on this the 22 day of July, 2020.



Hon. Catherine A. Mauzy

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Associated Case Party: First Clearing LLC

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Associated Case Party: Cary Street Partners aka Riverstone Wealth Management ("Riverstone")

Name
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John Courtade		johncourtade@johncourtade.com	7/22/2020 9:45:56 AM	SENT
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