

On April 18, 2022, Elijah W. Ratcliff filed this lawsuit, alleging that The State of Texas is responsible for state torts, violations of the U.S. Constitution, and the Texas Deceptive Trade Practices Act. (Petition). Elijah W. Ratcliff presents no factual allegations on the part of The State of Texas. (Petition). Elijah W. Ratcliff seeks \$100 million in damages. (Petition, p. 10).

Elijah W. Ratcliff does not allege or produce any evidence to establish a waiver of the sovereign immunity of The State of Texas. Further, Elijah W. Ratcliff does not have standing to bring any of his claims in this lawsuit against The State of Texas because Elijah W. Ratcliff does not present an alleged injury that is “fairly traceable” to the specific conduct of The State of Texas, and this Court cannot redress any alleged injury because of sovereign immunity. As a result, this Court also lacks subject matter jurisdiction to entertain this lawsuit.

Accordingly, there is not a reasonable probability that Elijah W. Ratcliff will prevail in the litigation against The State of Texas. *See* TEX. CIV. PRAC. & REM. CODE § 11.054

Over the last seven years, Elijah W. Ratcliff has filed this and commenced, prosecuted, or maintained as a *pro se* litigant numerous other litigations other than in small claims court that have been finally determined adversely to him or determined to be groundless. *See* TEX. CIV. PRAC. & REM. CODE § 11.054(1)(A) and (C). These include, but are not limited to the following litigations finally determined adversely to Elijah W. Ratcliff:

1. *Elijah W. Ratcliff v. Jenkins and Young, P.C., et al.*; Cause No. 5:22-cv-00048; in the United States District Court for the Northern District of Texas, Lubbock Division, dismissed April 6, 2022;
2. *Elijah W. Ratcliff v. State of Texas, et al.*; Civil Action No. 9:21-cv-00246; in the United States District Court for the Eastern District of Texas, Lufkin Division, dismissed December 22, 2021;
3. *Ratcliff v. Greyhound Lines, Inc.*, No. 18-CV-9672 (LLS), 2018 WL 10945322, at *1 (S.D.N.Y. Nov. 20, 2018), *aff'd sub nom. Ratcliff v. Greyhound Bus Lines, Inc.*, 792 F. App'x 121 (2d Cir. 2020)

4. *Ratcliff v. Texas, et al.*, No. 9:15-CV-106, 2017 WL 907992, (E.D. Tex. Mar. 7, 2017), *aff'd*, 699 F. App'x 410 (5th Cir. 2017)
5. *In re Ratcliff*, 578 U.S. 1011, 136 S. Ct. 2387, 195 L. Ed. 2d 775 (2016) (mandamus denied).

Additionally, after a litigation has been finally determined against Elijah W. Ratcliff, Ratcliff repeatedly relitigated or attempted to relitigate, pro se, the validity of the determination against the State of Texas, which was the same defendant as to whom the litigation was finally determined. *See* TEX. CIV. PRAC. & REM. CODE § 11.054(2)(A). Elijah W. Ratcliff has also repeatedly relitigated or attempted to relitigate, pro se, the cause of action, claim, controversy, or any of the issues of fact or law determined or concluded by the final determination against the State of Texas, which was the same defendant as to whom the litigation was finally determined. *See* TEX. CIV. PRAC. & REM. CODE § 11.054(2)(B). Before the filing of this lawsuit, the same causes of action, claims, controversies, and issues of fact or law were determined adversely to Elijah W. Ratcliff and in favor of the State of Texas in litigations in 2009, 2011, and 2015. *See Elijah W. Ratcliff v. State of Texas, et al.*; Civil Action No. 9:21-cv-00246; Dkt. 17 at *3 (E.D.Tx. Dec. 22, 2021).

Further, Elijah W. Ratcliff has a previous determination that he is a vexatious litigant by a federal court in an action or proceeding based on the same or substantially similar facts, transition, or occurrence. *See* TEX. CIV. PRAC. & REM. CODE § 11.054. Two of these are:

- *Ratcliff v. Texas*, No. 9:15-CV-106, 2017 WL 907992, at *1-2 (E.D. Tex. Mar. 7, 2017), *aff'd*, 699 F. App'x 410 (5th Cir. 2017) (because of his “**vexatious** filings that are a flagrant abuse of judicial process,” Ratcliff is sanctioned and “**enjoined from filing any further action, complaint, or motion in the United States District Court for the Eastern District of Texas without first paying the sanction ordered, and the previous sanctions ordered by this court, and obtaining leave from the Chief Judge of the United States District Court for the Eastern District of Texas**”) (emphasis added); and
- *Ratcliff v. Unauthorized Prac. of L. Comm. and the State of Texas*, No. 9:13-CV-70, 2013 WL 4029045, at *1 (E.D. Tex. Aug. 6, 2013) (“Ratcliff has a lengthy history of filing

frivolous lawsuits and lawsuits with no basis for federal jurisdiction. **Multiple sanctions have not deterred Ratcliff's vexatious litigation practices**"; p. 3: noting that in 2006, Ratcliff was sanctioned "as a result of his vexatious litigation practices," but because that did not deter him, he was "**barred from filing any new lawsuits or pleadings in closed cases without prior judicial approval finding that the pleading has been filed in good faith**") (emphasis added).

In addition, Elijah W. Ratcliff has been determined to be a vexatious litigant by two other courts in proceedings unrelated to this lawsuit:

- *Ratcliff v. Greyhound Lines, Inc.*, No. 18-CV-9672 (LLS), 2018 WL 10945322, at *4 (S.D.N.Y. Nov. 20, 2018), (Exhibit E, p. 1, fn 1: "By order dated July 31, 2014, **this Court barred Plaintiff from filing future civil actions in this Court in forma pauperis without leave of the Court.** *Ratcliff v. Lighty*, No. 14-CV-2704 (LAP) (S.D.N.Y. July 31, 2014)") (emphasis added).
- *Ratcliff v. McKeever*, No. H-85-CV-2490, 1986 WL 256 (S.D. Tex. Apr. 17, 1986) (enjoining Plaintiff "from refiling tax refund suits in [that court] for the years 1977 through 1981"), *aff'd*, 807 F.2d 994 (5th Cir. 1986) (table opinion)

Courts cannot allow litigants to abuse the judicial system and harass their victims without consequence. Accordingly, the Court **FINDS** that Elijah W. Ratcliff is such a litigant, and his conduct is subject to review and action by this Court.

Chapter 11 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE, provides this Court with the authority to prevent Elijah W. Ratcliff from using the judicial system to retaliate against and harass The State of Texas or any other party.

ORDER

Chapter 11 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE governs suits brought by vexatious litigants. The Court may, on defendant's motion or *sua sponte*, designate a party as a vexatious litigant. TEX. CIV. PRAC. REM. CODE § 11.101.

A party may be declared a vexatious litigant if there **is not** a reasonable probability that he will prevail in litigation **and** in the seven-year period immediately preceding the date the defendant makes the motion under Section 11.051, the party has commenced, prosecuted, or maintained at

least five litigations as a *pro se* litigant other than in a small claims court that have been finally determined adversely to the plaintiff, OR if a plaintiff repeatedly relitigates issues, causes of action, claims, or the validity of such determinations in prior lawsuits, OR if the plaintiff has previously been determined to be a vexatious litigant in a proceeding based on the same or a substantially similar set of facts or occurrences. TEX. CIV. PRAC. REM. CODE § 11.054.

As discussed above, Elijah W. Ratcliff does not allege or produce any evidence to establish a waiver of The State of Texas' sovereign immunity, nor does Elijah W. Ratcliff establish his own standing to bring any cause of action against The State of Texas.

Specifically, the Court **FINDS** as follows:

- (1) There **IS NOT** a reasonable probability that Elijah W. Ratcliff will prevail in his current litigation against The State of Texas.
- (2) In the past seven-year period, Elijah W. Ratcliff, has “commenced, prosecuted, or maintained at least five litigations as a *pro se* litigant other than in a small claims court that have been finally determined adversely to” Elijah W. Ratcliff.
- (3) After a litigation has been finally determined against Elijah W. Ratcliff, Ratcliff repeatedly relitigated or attempted to relitigate, *pro se*, the validity of the determination against The State of Texas, which was the same defendant as to whom the litigation was finally determined.
- (4) After a litigation has been finally determined against Elijah W. Ratcliff, Ratcliff repeatedly relitigated or attempted to relitigate, *pro se*, the cause of action, claim, controversy, or any of the issues of fact or law determined or concluded by the final determination against the same defendant as to whom the litigation was finally determined.

(5) Elijah W. Ratcliff has a previous determination that he is a vexatious litigant by a federal court in an action or proceeding based on the same or substantially similar facts, transition, or occurrence.

(6) Elijah W. Ratcliff meets the criteria for finding a plaintiff a vexatious litigant.

Accordingly, this Court **ORDERS** that **Elijah W. Ratcliff** is adjudicated to be a vexatious litigant.

Because of this, the Court **ORDERS** that **Elijah W. Ratcliff** is prohibited from filing *pro se* any new litigation in a court in this state, under the name “**Elijah W. Ratcliff**,” “**Elijah Ratcliff**,” “**Elijah W. Ratcliff, Agent**” or any other name, without first being granted permission to file by the local administrative judge, pursuant to TEX. CIV. PRAC. REM. CODE § 11.101. Such permission shall be granted only if the litigation appears to have merit and is not filed for purposes of harassment or delay; such permission may also be conditioned on the furnishing of a security.

Elijah W. Ratcliff is hereby **NOTIFIED** that he is subject to punishment pursuant to the inherent powers of the court or by contempt if he fails to obey this pre-filing order.

The Court further **ORDERS** that the Clerk of the Court is directed to notify the Office of Court Administration of this Court’s declaration of Elijah W. Ratcliff as a vexatious litigant and this pre-filing order, pursuant to TEX. CIV. PRAC. REM. CODE § 11.103 (a). The Office of Court Administration of the Texas Judicial System shall list Elijah W. Ratcliff a/k/a “Elijah W. Ratcliff, Agent” on the list of vexatious litigants subject to pre-filing orders on the agency's Internet website. TEX. CIV. PRAC. REM. CODE § 11.103(b).

Finally, the Court **ORDERS** that proceedings in this matter are hereby stayed; that **Elijah W. Ratcliff** is **ORDERED** to provide security to Defendant the State of Texas by posting a bond with this Court in the amount of \$ 10,000.00 to cover reasonable expenses incurred in

connection with the litigation commenced by Elijah W. Ratcliff, including costs and attorney's fees; that, if Elijah W. Ratcliff fails to post a \$ 10,000.00 bond within ten calendar days of the signing of this Order, then this suit will be dismissed with prejudice in its entirety, pursuant to TEX. CIV. PRAC. REM. CODE § 11.056.

7/7/2022

Date



JUDGE PRESIDING

IT IS, further ORDERED, ADJUDGED, and DECREED that Elijah W. Ratcliff is prohibited from filing *pro se* any new litigation in a court in this state without first being granted permission to file by the local administrative judge, pursuant to Tex. Civ. Prac. Rem. Code § 11.101. Such permission shall be granted only if the litigation appears to have merit and is not filed for purposes of harassment or delay; such permission may also be conditioned on the furnishing of a security.

Elijah W. Ratcliff is hereby NOTIFIED that he is subject to punishment pursuant to the inherent powers of the Court or by contempt if he fails to obey this pre-filing order.

IT IS, further ORDERED, ADJUDGED, and DECREED that the Clerk of the Court is directed to notify the Office of Court Administration of this Court's declaration of Elijah W. Ratcliff as a vexatious litigant and this pre-filing order, pursuant to Tex. Civ. Prac. Rem. Code § 11.103 (a). The Office of Court Administration of the Texas Judicial System shall list Elijah W. Ratcliff on the list of vexatious litigants subject to pre-filing orders on the agency's Internet website. Tex. Civ. Prac. Rem. Code § 11.103(b).

IT IS, therefore ORDERED, ADJUDGED, and DECREED that on or before July 18, 2022, Elijah W. Ratcliff pay security in the amount of \$10,000.00 for the benefit of Defendant City of Livingston, Texas, as sure payment for Defendant City of Livingston, Texas' court costs and attorney's fees. Payment by form of check or money order shall be made payable to the registry of the Court. Payment shall contain this matter's cause number in the memorandum line, and be mailed to Lubbock Co. District Clerk, 904 Broadway, Room 105,
Lubbock, TX 79401.

SIGNED on this 7th day of July, 2022.



JUDGE PRESIDING