

CAUSE NO. 2015-52163

MOODY, STEVEN PH D,	§	IN THE DISTRICT COURT OF
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<i>Plaintiff(s),</i>	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
	§	
NONSTOP BAIL BONDS CO,	§	
<i>Defendant(s).</i>	§	113th JUDICIAL DISTRICT

**ORDER DECLARING VEXATIOUS LITIGANT**

On September 3, 2015, the Plaintiff, Steven Craig Moody (SPN: 00401556) a/k/a Steven Moody, Ph.D. (Moody), currently an inmate in the Harris County Jail, filed a pro se petition in which he asserts he is indigent in which he advanced claims against Nonstop Bail Bonds Company (Nonstop), Financial Casualty and Surety Incorporated (Financial), the owner of Nonstop, Lafayette Taylor (Taylor), three “John Doe” defendants, and two “Jann (sic) Doe” defendants. On November 13, 2015, Defendants, Nonstop, Financial, and Mr. Taylor, asked the Court to adjudicate Mr. Moody to be a vexatious litigant. It appears to the Court that Defendants’ motion has merit.

BACKGROUND

Mr. Moody claims that he contacted Mr. Taylor to obtain a bail bond for his son. While filling out the paperwork for the bond, Mr. Moody declined to be photographed, but did tender \$150 for the bond.<sup>1</sup> After several hours, Mr. Taylor contacted Mr. Moody and informed him that Financial Casualty and Surety declined to issue the bond because “of me [Mr. Moody] refusing to take a picture.” Mr. Taylor allegedly told Mr. Moody that the \$150 fee would be refunded if Mr. Moody came by Nonstop’s Office the next day before 5:30 p.m. At approximately 4:30 on December 30, 2015, Mr. Moody returned to Nonstop’s Office and completed the paper work to secure the refund of his \$150. After waiting for “over 30 to 45 minutes,” Mr. Moody attempted

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<sup>1</sup> Page 4 of Mr. Moody’s petition states, “Plaintiff also told Defendant Jann Doe No. 1, that he [Mr. Moody] is an attorney and only the co-signer on this bond, and is not the Defendant, and he is not taking no (sic) pictures for no (sic) bonding company . . . .”

to leave, but found himself to be locked in Nonstop's Office. Subsequently, two uniformed Houston Police Officers (John Doe #1 and John Doe #2) arrived. After asking the Plaintiff whether he was Steven Moody and if he had informed Mr. Taylor that he was an attorney, the officers arrested Mr. Moody and confined him in the Houston City Jail for two days.

A review of the records of the Harris County District Clerk reveal that Mr. Moody is currently charged with Evading Arrest (trial court number 1462086) and Making a False Statement to Obtain Credit (trial court number 1462085). Indictments were returned in both matters by a grand jury and the cases are pending in the 182<sup>nd</sup> District Court of Harris County.<sup>2</sup>

#### OFFICERS OF FINANCIAL CASUALTY AND SURETY - JOHN DOE #1 AND #2

Mr. Moody names John Doe #1 as the President of Financial Casualty and Security, Incorporated and John Doe #2 as the Chief Executive Officer of Financial Casualty and Security as Defendants. After reviewing the record, the Court Finds Mr. Moody did not plead a cause of action against either John Doe #1 or John Doe #2.

#### POLICE OFFICERS – JOHN DOE #3 AND #4

Mr. Moody claims John Doe #3 and John Doe #4 “failed to protect the rights[,] health, safety[,] and well-being of Plaintiff [Mr. Moody] while he was unlawfully confined.” Mr. Moody further argues that the Houston City Jail cell he was housed in is “unfit, unsafe, vile, and filthy.” He also complains that he was housed with “drunken, diseased, unclean, and mentally unstable people.”

Mr. Moody also contends that he had “not committed any criminal offense” and that his arrest was “completely unlawful and without reason or authority.” He further claims that John Doe #1 and #2 “did not have probable cause” and that his “warrantless arrest was not justified under Texas law.”

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<sup>2</sup> Court records also indicate that Mr. Moody has previously been convicted of two felony offenses.

NONSTOP EMPLOYEES – JANN DOE #1 AND #2

Mr. Moody claims that because Defendants Jann Doe #1 and #2 locked him in a room in Nonstop’s Offices, they “unlawfully, forcibly[,] and maliciously imprisoned, restrained, and deprived [him] of his liberty against his will for 30 to 40 minutes without any legal authority to do so.”

Moody argues that Jann Doe #1 and #2’s actions “hindered and prevented” him from “performing transacting his ordinary and necessary affairs and business.” This involuntary restraint also caused Mr. Moody to “suffer great humiliation, pain, and mental anguish” for which he claims an unidentified amount of damages. Mr. Moody further claims that the two Jann Does’ conduct in restraining him also resulted in his suffering “extreme humiliation, fright, and mental distress” to such an extent that he “has had to seek professional counseling.”

Mr. Moody also informs the Court that he has sent Nonstop a timely demand letter under the Deceptive Trade Practices Act, but that Nonstop has not tendered payment, made a settlement offer, or replied to his letter. Claiming that the acts of the Defendants “constitute malice” and were committed “with a specific intent to cause substantial injury” to him, Mr. Moody asks for exemplary damages under the DTPA. He charges Nonstop’s employees of engaging in false, misleading and deceptive practices and making a “false police report” which resulted in his arrest and were the “producing cause of his damages.” Mr. Moody also argues that Defendants “took advantage of his lack of knowledge, ability, experience, and capacity to a grossly unfair degree” and that conduct caused him “mental anguish.” Although his pleadings are filed *pro se*, Mr. Moody claims that he has retained legal counsel and asks that he be awarded attorney’s fees.

Finally, Mr. Moody asks for \$190,000 as damages for economic loss and mental anguish, treble damages, attorney’s fees, prejudgment interest, and court costs.

## ANALYSIS

Mr. Moody has generally pled that the Defendants are liable to him under theories of false arrest, false imprisonment, and under the Texas Deceptive Trade Practices Act. The Court **FINDS** that Mr. Moody has not pleaded any facts that would support liability of any party under these causes of action.

## FALSE IMPRISONMENT

To recover on his claim for false imprisonment against the Defendants<sup>3</sup>, Mr. Moody must prove (1) he was willfully detained; (2) the detention was made without his consent; and (3) the detention was made without the authority of law. A review of the record indicates that Mr. Moody has pled no facts which would subject Financial Casualty and Surety to liability for false imprisonment.

Defendants Lafayette Taylor and Jann Doe #1 and #2, they are private citizens. The law is clear that private citizens who give information to the police about the commission of a crime, or have accused another of committing a crime, do not commit false arrest or imprisonment so long as the private citizens leave the decision regarding arrest to the authorities and do not persuade or influence those authorities to make the arrest. *See Wal-Mart Stores, Inc. v. Rodriguez*, 92 S.W.3d 502, 507-08. (Tex. 2002). Mr. Moody has not claimed that Mr. Taylor or Jann Doe #1 or #2 gave information to the police knowing it was false, nor does he claim they directed or requested the authorities to arrest Mr. Moody.

After reviewing the Court's records, the pleadings, arguments of counsel, and applicable authorities, the Court **FINDS** Mr. Moody will not be able to prove his detention was made without authority of law. Accordingly, the Court **FINDS** there is no a reasonable probability Mr. Moody will prevail on his claims for false imprisonment.

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<sup>3</sup> False arrest is not a separate cause of action from false imprisonment; false arrest is a means of committing a false imprisonment. *Whirl v. Kern*, 407 F.2d 781,790 (5<sup>th</sup> Cir. 1968).

## DECEPTIVE TRADE PRACTICE CLAIMS

As the Defendants pointed out, DTPA is a consumer protection statute. It permits a consumer to bring a cause of action against "any person whose false, misleading, or deceptive acts, or other practices enumerated in the Act are the producing cause of the consumer's harm." *Miller v. Keyser*, 90 S.W.3d 712, 715 (Tex. 2002). To maintain an action under DTPA, the plaintiff must show: (1) he is a consumer; (2) the defendant employed a false, misleading, or deceptive act which is included in the "laundry list" of violations in the Texas Business and Commerce Code, and (3) that these acts represent a producing cause of the plaintiff's damages. *See* TEX. BUS. & COM. CODE §§17.46(b) & 17.50(a)(1). After reviewing the Court's records, the pleadings, arguments of counsel, and applicable authorities, the Court **FINDS** Steven Moody has not identified any false, misleading, or deceptive acts on the part of any Defendant that would be actionable under the DTPA. The Court **FINDS** that Steven Moody has not pleaded or identified any misleading statement made by the Defendants as the producing cause of his damages. The Court **FURTHER FINDS** that Steven Moody has not pleaded or identified any misleading statement by the Defendants that he relied on to his detriment.

## PLAINTIFF'S LITIGATION HISTORY

A review of court records and Westlaw reveals that, since 2014, Stephen Craig Moody has filed and unsuccessfully prosecuted the following *pro se* litigation in Harris County courts:

- (1) *Moody v. Spring Chrysler* (2014-26991, 133<sup>rd</sup> District Court, Harris County). Dismissed for want of prosecution on May 7, 2015;
- (2) *Moody v. Spring Chrysler* (01-14-00625-CV, First Court of Appeals). Dismissed for want of prosecution February 10, 2015;
- (3) *Moody v. John Doe No.1 (a/k/a "Big Al")* (2014-26991A, 133<sup>rd</sup>). Dismissed for want of prosecution April 24, 2015 (severance from *Moody v. Spring Chrysler*);
- (4) *Moody v. Jack in the Box* (2014-29160, 127<sup>th</sup> District Court, Harris County). Dismissed for want of prosecution March 4, 2015;
- (5) *Moody v. Prime Storage, LLC*. (2014-40853, 295<sup>th</sup> District Court, Harris County). Defendant's motion for summary judgment granted and case dismissed with prejudice on December 1, 2014;

- (6) *Steven Moody v. Ray Matthews* (2014-49831, 234<sup>th</sup> District Court, Harris County). Dismissed with prejudice on Defendant’s motion on April 6, 2015; and
- (7) *Moody v. Jorge Lopez* (2014-49830, 333<sup>rd</sup> District Court, Harris County). Dismissed for want of prosecution on March 26, 2015.

This review also revealed that Mr. Moody also has a history of filing frivolous suits in federal courts.<sup>4</sup>

#### THE VEXATIOUS LITIGANT STATUTE

Chapter 11 of the Texas Civil Practice and Remedies Code governs suits brought by vexatious litigants and specifies that a Court may, on defendant’s motion or *sua sponte*, designate a party as a vexatious litigant. *See* TEX. CIV. PRAC. & REM. CODE § 11.101.

A Court may declare a party to be a vexatious litigant if there is not a reasonable probability that he will prevail in litigation and the party has a history of filing or repeatedly re-litigating unsuccessful or frivolous suits. TEX. CIV. PRAC. & REM. CODE § 11.054. Specifically, during the seven year period immediately preceding the date the defendant files its motion to declare the plaintiff a vexatious litigant, the plaintiff has “commenced, prosecuted, or maintained at least five litigations as a pro se litigant” that have been “finally determined adversely to the plaintiff” or have been determined “by a trial or appellate court to be frivolous or groundless under state or federal law or rules of procedure.” *See Id.* Finally, a court may find a plaintiff to be a vexatious litigant if the party has previously been declared to be a vexatious litigant by state or federal in an action or proceeding based on the same or substantially similar facts, transaction, or occurrence. *See Id.*

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<sup>4</sup> *Moody v. Garcia*, Cause No. 4:12-cv-03770, H-12-3770 (S.D. Tex.)(dismissed as frivolous on January 15, 2013); *Moody v. Appleman*, Appeal No. 02-40158 (5<sup>th</sup> Cir.)(dismissed as frivolous on June 24, 2003); *Moody v. Appleman*, 1:00-0058 (E.D. Tex.) (dismissed as frivolous on December 14, 2001); and *Moody v. Griffith*, 1:96-0754 (E.D. Tex.) (dismissed as frivolous on February 28, 1997).

## FINDINGS

The Court **FINDS**:

- (1) There is not a reasonable probability that Mr. Moody will prevail in the current litigation.
- (2) Mr. Moody has a history of filing or repeatedly re-litigating unsuccessful or frivolous suits.
- (3) During the past seven year period Mr. Moody has “commenced, prosecuted, or maintained at least five litigations as a pro se litigant” that have been “finally determined adversely to him”; and
- (4) Steven Craig Moody meets the criteria for finding a plaintiff a vexatious litigant.

### ORDER

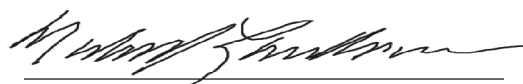
Accordingly, the Court GRANTS the Defendants’ motion to declare Steven Craig Moody a vexatious litigant. The Court ORDERS that Steven Craig Moody is prohibited from filing new litigation in a state court without first obtaining permission from the appropriate local administrative judge. *See* TEX. CIV. 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.

The Court also gives Steven Craig Moody notice that if he fails to obey this order, he may be sanctioned or found in contempt and subject to punishment.

The Court ORDERS the Harris County District Clerk to refuse the filing of any new litigation by Steven Craig Moody unless he first obtains written permission from the appropriate local administrative judge.

The Court further ORDERS the Harris County District Clerk to forward a copy of this Order to the Office of Court Administration. *See* TEX. CIV. PRAC. & REM. CODE §11.104(a).

Signed February 12, 2016



Hon. MICHAEL LANDRUM  
Judge, 113th District Court



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this February 12, 2016

Certified Document Number: 68972238 Total Pages: 7

Chris Daniel, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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