

CAUSE NO. 2011-557-282

FILED FOR RECORDED
2011 AUG - 9 PM 2:31
Lubbock County

ALCARIO ALVARADO

Plaintiff,

v.

JOHNNY BOYLS AND THE LUBBOCK HEALTH
CARE CENTER, et al.

Defendants.

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IN THE DISTRICT COURT

OF LUBBOCK COUNTY, TEXAS

237TH JUDICIAL DISTRICT

ORDER

On this day, the Court considered the Motion for Entry of Pre-Filing Order pursuant to Texas Civil Practice and Remedies Code § 11.001, *et seq.*, Motion for Summary Judgment, and Motion for Sanctions filed by Defendants JOHNNY BOYLES AND THE LUBBOCK HEALTH CARE CENTER ("Defendants"). After examining the pleadings, evidence provided, the applicable law and hearing the arguments, if any, the Court finds that:

There is not a reasonable probability that Plaintiff will prevail in the litigation against Defendants as Plaintiff's claims in this action are barred by the doctrine of *res judicata*.

Plaintiff has previously been declared to be a vexatious litigant by this Court in Cause No. 2010-551,793; *Alcario Alvarado v. Johnny Boyls and the Lubbock Health Care Center et al.*, which was an action based on the same facts or occurrence as those at issue in this action.

Plaintiff is a vexatious litigant.

No local administrative judge has granted Plaintiff permission to file this action.

Plaintiff's claims in this lawsuit are groundless as having no basis in law or fact and are not warranted by good faith argument for the extension, modification, or reversal of existing law.



On these bases the Court hereby determines that Defendants' Motion for Entry of Pre-Filing Order, Motion for Summary Judgment, and Motion for Sanctions are well taken and should be granted in their entirety. Accordingly, it is hereby **ORDERED** that:

Defendants' Motion for Entry of Pre-Filing Order, pursuant to Texas Civil Practice and Remedies Code § 11.001, *et seq.*, is hereby **GRANTED**;

It is further **ORDERED, ADJUDGED** and **DECREED** that Plaintiff is hereby designated a vexatious litigant pursuant to Chapter 11 of the Texas Civil Practice and Remedies Code;

It is further **ORDERED, ADJUDGED** and **DECREED** that Plaintiff is prohibited from filing, on his own behalf or by and through his representative Lucy Hernandez, new litigation *propria persona*, in a court of this state.

It is further **ORDERED, ADJUDGED** and **DECREED** that the Clerk of the Court shall enter a Pre-Filing Order in accordance with this ruling and provide the Office of Court Administration of the Texas Judicial System a copy of such Order pursuant to the Civil Practice and Remedies Code.

Defendants' Motion for Summary Judgment is hereby **GRANTED**;

It is further **ORDERED, ADJUDGED** and **DECREED** that Plaintiff takes nothing to his suit against Defendants and that the entirety of Plaintiff's claims against Defendants are dismissed **with prejudice**;

Defendants' Motion for Sanctions is hereby **GRANTED**;

It is further **ORDERED, ADJUDGED** and **DECREED** that Plaintiff shall be sanctioned pursuant to Rule 13 of the Texas Rules of Civil Procedure and Chapter 10 of the Civil Practice and Remedies Code.



It is further ORDERED, ADJUDGED and DECREED that Plaintiff will pay Defendants the amount of \$ 2,800.00 + 3,600.00 costs, which is the amount of their reasonable and necessary fees and costs incurred in this suit and such payment will be made on or before December 15, 2011.

It is further ORDERED, ADJUDGED and DECREED that Plaintiff will pay Defendants the past due amount of \$40.00, which is the amount determined to be Defendants' reasonable and necessary costs incurred in the action styled as, Cause No. 2010-551,793; *Alvarado v. Johnny Boyls and the Lubbock Health Care Center, et al.*, in the 27th Judicial District Court of Lubbock County, Texas, and ordered to be paid as sanction to Defendants.

All relief requested and not expressly granted is denied.

SIGNED on this the 4th day of November, 2011.



PRESIDING JUDGE



I, Barbara Susy, District Clerk, in and for Lubbock County, Texas, do hereby certify this to be a true and correct copy of a like instrument now on file in this office.

This 15 day of November, 2011 S. D. [Signature] Deputy
Clerk of District Court, Lubbock County, Texas

CAUSE NO. 2010-551-793

ALCARIO ALVARADO

Plaintiff,

v.

JOHNNY BOYLS AND THE LUBBOCK HEALTH CARE CENTER, et al.

Defendants.

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IN THE DISTRICT COURT

OF LUBBOCK COUNTY, TEXAS

237TH JUDICIAL DISTRICT

FILED FOR RECORD
BY CLERK
2010 AUG 16 PM 4:22
COURT CLERK
LUBBOCK CO. TEXAS

ORDER

On this day, the Court considered the Motion for Summary Judgment filed by Defendants JOHNNY BOYLES AND THE LUBBOCK HEALTH CARE CENTER ("Defendants"). After examining the pleadings, evidence provided, the applicable law, and hearing the arguments, if any, the Court finds that:

Plaintiff's claims are barred by the doctrine of *res judicata*.

Plaintiff will not prevail in this suit.

By this lawsuit against Defendants, Plaintiff has attempted to relitigate, in propria persona, all claims, issues, and causes of action asserted against Defendants in Cause No. 2008-545-562; *Alcario Alvarado v. Johnny Boyls and the Lubbock Health Care Center*; in the 237th District Court of Lubbock County, Texas, which have been determined by the final order in that suit.

Plaintiff's claims in this suit are groundless as having no basis in law or fact and are not warranted by good faith argument for the extension, modification, or reversal of existing law.

On these bases the Court hereby determines that Defendants' Motion is well taken and should be granted in its entirety. Accordingly, it is hereby **ORDERED** that:

Defendants' Motion for Summary Judgment is hereby **GRANTED**;

It is further ORDERED, ADJUDGED and DECREED that Plaintiff takes nothing by his suit against Defendants and that the entirety of Plaintiff's claims against Defendants are dismissed with prejudice;

It is further ORDERED, ADJUDGED and DECREED that Plaintiff is hereby designated a vexatious litigant pursuant to Chapter 11 of the Texas Civil Practice and Remedies Code;

~~It is further ORDERED, ADJUDGED and DECREED that Plaintiff will furnish a security for the benefit of Defendants in the amount of \$ _____, which is the amount of their reasonable and necessary fees and costs incurred in this suit, on or before _____, 2010.~~

It is further ORDERED, ADJUDGED and DECREED that Plaintiff shall be sanctioned pursuant to Rule 13 of the Texas Rules of Civil Procedure and Chapter 10 of the Civil Practice and Remedies Code.

It is therefore ORDERED, ADJUDGED and DECREED that Plaintiff will pay Defendants the amount of \$ 40.⁰⁰, which is the amount of their reasonable and necessary fees and costs incurred in this suit and such payment will be made on or before September 30, 2010.

All relief requested and not expressly granted is denied.

SIGNED on this the 15th day of August, 2010.


PRESIDING JUDGE