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VEXAO  
SENSX

NO. 2012-60338

**IN THE INTEREST OF**  
  
**ALEC I. FARACH,**  
  
**A CHILD**

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**IN THE DISTRICT COURT**  
  
**HARRIS COUNTY, TEXAS**  
  
**311THG JUDICIAL DISTRICT**

**FILED**  
Chris Daniel  
District Clerk  
**APR 24 2018**  
Time: 3:44P  
By: J. GARCIA  
Deputy

**SUBSTITUTE ORDER DECLARING  
JOSE E. FARACH A VEXATIOUS LITIGANT**

On November 27, 2017, Respondent, Elizabeth Jarufe (Jarufe) filed a motion pursuant to Chapter 11 of the Texas Civil Practice and Remedies Code in which she asks the Court to declare the Petitioner, Jose E. Farrach a vexatious litigant and require him to furnish security. On March 27, 2018, the Court held a hearing on the Ms. Jarufe’s motion at which both parties were present. After reviewing the record, the applicable authorities, the arguments and evidence presented, the Court FOUND Ms. Jarufe’s motion had merit signed an order GRANTING the motion on April 9, 2018.

After reviewing the April 9, 2018, order, the Court *sua sponte* ORDERS the “Order Declaring Jose E. Farach a Vexatious Litigant” WITHDRAWN and SUBSTITUTES this order in its place.

The Court ORDERS the Harris County District Clerk to give notice of this order to all parties and to file a copy of this order in the record of the case.

**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. See TEX. CIV. PRAC. & REM. CODE § 11.054. Specifically, during the seven year period immediately preceding the date the respondent files her motion to declare the petitioner a vexatious litigant, the petitioner has “commenced,

prosecuted, or maintained at least five litigations as a *pro se* litigant” that have been “finally determined adversely to the [petitioner]” 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 / petitioner to be a vexatious litigant if the party has previously been declared 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.*

**The Court FINDS:**

- (1) The 311th Judicial District Court of Harris County, Texas, has continuing, exclusive jurisdiction in this case.
- (2) On November 22, 2013, in the 311<sup>th</sup> District Court, Elizabeth Jarufe was divorced from Jose Farach in trial court cause number 2012-60338, *In the Matter of the Marriage of Elizabeth Jarufe Farach and Jose Eduardo Farach and in the Interest of Alec I. Farach, a child.*
- (3) The record shows that, since their divorce in 2013, Jose E. Farach has filed at least five *pro se* lawsuits against Ms. Jarufe in which he unsuccessfully attempted to relitigate the ultimate issue of custody.
- (4) After losing repeatedly at the trial court, Mr. Farach filed unsuccessful appeals with the state appellate court, the Texas Supreme Court, and the United States Supreme Court.
- (5) The Court’s original order appointed Ms. Jarufe as the sole managing conservator of the child and gave her the right to designate the residence of the child.
- (6) The Court did not impose any geographic restriction on the residence of the child.
- (7) The Court appointed Jose E. Farach as the possessory conservator of the child with supervised possession and access.
- (8) Between November 22, 2013, and November 17, 2017, Jose E. Farach filed ten Motions to modify custody against Elizabeth Jarufe.
- (9) Four days after the Court entered the original November 22, 2013 custody order, Mr. Farach filed his first *pro se* motion to modify custody on November 26, 2013.
- (10) The Court signed the order denying Mr. Farach’s *pro se* first motion to modify on February 6, 2014.

- (11) On February 13, 2014, Mr. Farach filed his second *pro se* motion to modify custody/parent-child Relationship.
- (12) The Court signed the order denying Mr. Farach's second *pro se* motion to modify custody on March 5, 2014.
- (13) Represented by counsel, Mr. Farach filed his third motion to modify custody on April 10, 2014.
- (14) The Court signed the order denying Mr. Farach's third motion to modify custody on July 10, 2015.
- (15) On August 5, 2015, Mr. Farach filed his fourth *pro se* motion to modify custody.
- (16) The Court signed the order denying Mr. Farach's fourth *pro se* motion to modify custody on September 9, 2015.
- (17) On September 18, 2015, Mr. Farach filed his fifth *pro se* pleading, a Petition to Modify Custody (Parent-Child Relationship).
- (18) After a jury trial, the Court denied his fifth *pro se* request to modify custody on September 24, 2015.
- (19) On October 30, 2015, Mr. Farach filed his sixth *pro se* motion to Modify/Appeal Child Custody.
- (20) On November 6, 2015, the trial court signed an order denying in part and granting in part the suit to modify the parent-child relationship. The order denied Mr. Farach's request to be the sole managing conservator or joint managing conservator of the child. The order further restricted Mr. Farach's possession of or access to the child, specifically ordering that Jose Farach was to have no access to or unsupervised possession of the child.
- (21) On November 10, 2017, Mr. Farach filed a motion to modify the parent-child relationship.
- (22) On November 28, 2017, the trial court signed an order dismissing his motion.
- (23) On December 1, 2017, Mr. Farach filed a *pro se* motion to modify the parent-child relationship.
- (24) On December 28, 2017, Ms. Jarufe filed a motion asking the Court to declare Mr. Farach a vexatious litigant. The motion was set for a March 27, 2018, hearing. *See* TEX. CIV. PRAC. & REM. CODE § 11.052 & TEX. FAM. CODE §156.005.

- (25) On January 4, 2018, Mr. Farach filed a *pro se* emergency motion to modify the parent-child relationship. That motion is still pending.
- (26) Mr. Farach appealed the original November 6, 2015, trial court judgment to the Fourteenth Court of Appeals. The appellate court affirmed the lower court's judgment on November 22, 2016, in cause number 14-16-0016-CV.
- (27) Mr. Farach filed a petition for review with the Texas Supreme Court on January 24, 2017. That court denied his petition on March 17, 2017.
- (28) On May 30, 2017, Mr. Farach filed a writ of certiorari with the United States Supreme Court. The Supreme Court denied his writ on October 2, 2017.
- (29) On May 29, 2017, a court in San Pedro Sula, Honduras issued a Protective Order against Mr. Jose Farach because of his attempts to unlawfully remove the child from his school without the knowledge or consent of Elizabeth Jarufe or the school officials.
- (30) Jose Farach filed Migration Alerts on the child in Honduras on August 4, 2016 in Tegucigalpa, Honduras and on May 11, 2017 in San Pedro Sula, Honduras. The May 11, 2017 case is still open in Honduras. Because of the pending Migration Alert, the child, an American citizen, was not allowed to leave the country.

The Court **FINDS** Jose E. Farach has engaged and continues to engage in a pattern of harassing litigation against Elizabeth Jarufe.

The Court **FINDS** Jose E. Farach has repeatedly filed frivolous suits for modification of the parent child relationship designed to harass Ms. Jarufe. *See* TEX. FAM. CODE § 156.005.

The Court **FINDS** Jose E. Farach has repeatedly attempted to relitigate the same issues pertaining to modification of the parent-child relationship.

The Court **FINDS** Jose E. Farach has commenced, prosecuted, or maintained at least five litigations as a *pro se* litigant that have been “finally determined adversely to him.”

The Court **FINDS** there is no reasonable probability that Jose E. Farach will prevail on his pending “Emergency Petition to Modify the Parent-Child Relationship” filed on January 4, 2018.

The Court **FINDS** Jose E. Farach has commenced, prosecuted, or maintained at least five litigations as a *pro se* litigant that have been “finally determined adversely to him.”

#### **ORDER**

Accordingly, the Court **GRANTS** Elizabeth Jarufe's motion and **ORDERS** Jose E. Farach adjudicated to be a vexatious litigant.

The Court **ORDERS** that Jose E. Farach prohibited from filing new litigation, including motions to modify the parent-child relationship, in a state court without first obtaining permission from the appropriate local administrative judge. *See* TEX. CIV. PRAC. & REM. CODE §11.101. The Local Administrative Judge will grant such permission 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.

To prosecute the pending "Emergency Petition to Modify the Parent-Child Relationship" filed January 4, 2018, the Court **ORDERS** Jose E. Farach to furnish security in the amount of \$30,000, payable by cashier's check or money order. Mr. Farach shall deposit this security into the registry of the court no later than May 30, 2018.


The Court **ORDERS** proceedings in this Court stayed until as Mr. Farach deposits this security into the registry of the Court. If Mr. Farach fails to furnish this security on or before May 30, 2018, the Court shall dismiss the case on June 8, 2018, for want of prosecution.

The Court also admonishes Jose E. Farach that if he fails to obey this order, the Court may sanction him and find him in contempt. If found in contempt, the Court may sentence him to up to six month's confinement and a \$500 fine.

The Court **ORDERS** the Harris County District Clerk to refuse the filing of any new litigation by Jose E. Farach 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: 9/27/18  
Houston, Texas

  
Alicia Franklin York  
Judge, 311th District Court  
Harris County, Texas



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 April 26, 2018

Certified Document Number: 79662038 Total Pages: 5

Chris Daniel, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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