

P-3
VEXA

CAUSE NO. 2009-74161

PATRICIA ANN POTTS,
Plaintiff

vs.

DEBRA HARVEY, M.D.; MARK
LEHMAN, PhD; PATRICIA JANKI, MD;
AVINASH PARTI, MD; KRISHNA
BHAT, MD; PETER STANFIELD MD;
VATSALA BHASKARAN PhD;
KINGWOOD PINES HOSPITAL; and
HUMANA INSURANCE COMPANY.
Defendants

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IN THE 11TH JUDICIAL

DISTRICT COURT OF

HARRIS COUNTY, TEXAS

ORDER DECLARING PATRICIA ANN POTTS A VEXATIOUS LITIGANT

This Court has considered Defendants' Motion for Order Declaring Plaintiff to Vexatious Litigant, and Requesting Security or Dismissal for Failure to Post Security ("Motion"). A hearing on Defendants' Motion was held on February 15, 2010 after Plaintiff was served with the Motion and Notice of Hearing in accordance with the Texas Rules of Civil Procedure. Plaintiff neither filed a Response to the Motion nor attended the hearing.

Under Chapter 11, a Court may determine that a plaintiff is a vexatious litigant and require the plaintiff to furnish security as a condition to proceeding with the suit. The movant must establish that there is not a reasonable probability that (a) plaintiff will prevail in the litigation and (b) either:

- (1) The plaintiff, in the seven-year period immediately preceding the date the defendant makes the motion under Section 11.051, has commenced, prosecuted, or maintained at least five litigations, including both actions in trial court as well as appeals, other than in a small claims court that have been:
 - finally determined adversely to the plaintiff;
 - permitted to remain pending at least 2 years; or
 - determined by a trial or appellate court to be groundless or frivolous under state or federal laws or rules of procedure.

FILED

Loren Jackson
District Clerk

FEB 15 2010

Time: _____
Harris County, Texas

By _____
Deputy

or

- (2) The plaintiff has previously been declared to be a vexatious litigant by a state or federal court in an action or proceeding based on the same or substantially similar facts.

After considering the Motion and evidence attached thereto as well as arguments from Counsel, this Court finds that there is not a reasonable probability that Plaintiff will prevail in this litigation. This Court further finds that, in the seven years preceding Defendants' Motion, Plaintiff has filed more than five litigations that were finally determined adversely to her; were permitted to remain pending at least 2 years; or were determined by a trial or appellate court to be groundless or frivolous under state or federal laws or rules of procedure. This Court also finds Plaintiff has previously been declared to be a vexatious litigant by multiple federal courts in actions or proceedings based on the same or substantially similar facts.

Defendants have demonstrated that Plaintiff is a vexatious litigant for purposes of Chapter 11 of the Texas Civil Practice and Remedies Code. The Court, accordingly, Orders the current action stayed until such time as Plaintiff posts security in the amount of \$120,000, which represents \$15,000 per eight Defendants who have filed and otherwise joined the Motion. If Plaintiff fails to post security within 30 days from the date this Order is signed, the lawsuit shall be dismissed with prejudice.

If Plaintiff posts security, the Court shall lift the stay. Thereafter, any of the moving Defendants who have prevailed in the litigation shall be entitled to petition the Court for reimbursement from the security posted for such things as costs, expenses, attorneys' fees that were incurred as a result of this lawsuit. Plaintiff is hereby notified that the purpose of the security is to compensate Defendants for such costs, fees and expenses incurred in successfully defending Plaintiff's claims.

The Court also prohibits Patricia Ann Potts from filing, *in propria persona*, any new litigation in this state without the prior permission of a local administrative judge. If Potts does not obtain such permission before filing another lawsuit, the Court shall dismiss the litigation and grant the Defendant any and all further relief the Court deems just and proper. Patricia Ann Potts is hereby notified that she is subject to punishment for contempt (including fines and/or imprisonment) if she fails to obey this Order.

Signed on February ¹⁶18, 2010.



Judge Presiding



I, Loren Jackson, 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 _____

Certified Document Number: _____

LOREN JACKSON, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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