

NO. 2014-49892

FILED

Chris Daniel
District Clerk

DEC 18 2014

Time:

By Red Harris County, Texas

**HARRIS COUNTY, ET AL.,
Plaintiffs**

vs.

**ALBERT ROBINSON a/k/a
ALBERT M. ROBINSON, ET AL.,
Defendants**

§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

281st JUDICIAL DISTRICT

P3
VEXAD

ORDER

On October 24, 2014, cross-defendants, Larry Freeman, D.D.S. and Kent Eugene Ziegenbein, D.D.S. (Freeman and Ziegenbein) filed a motion to dismiss cross-plaintiff, Albert Robinson's cross claim, a motion for Rule 13 Sanctions, and for an order determining Albert M. Robinson (Robinson) a vexatious litigant.

On December 5, 2014, the Court held a hearing on the record and considered the motions. Mr. Robinson appeared by phone. This Order addresses the portion of the motion filed by Doctors Freeman and Ziegenbein asking that Mr. Robinson be declared a vexatious litigant.

BACKGROUND

Although this is a tax case, the ongoing controversy between Mr. Robinson and Doctors Freeman and Ziegenbein has its origins from a dental malpractice case filed by Mr. Robinson against the doctors and several other defendants on January 31, 2008. Mr. Robinson alleged, among other things, assault, breach of contract, intentional infliction of emotional distress, medical malpractice, negligence and negligent hiring.¹ On July 20, 2009, the Court signed a Final Judgment dismissing all claims and ordered that Mr. Robinson take nothing. An abstract of judgment was also entered on that day awarding \$9,678.00 in fees and costs to Dr. Freeman and \$9,597.50 in fees and costs to Dr. Ziegenbein.

¹ Cause No 2008-06082, *Anita Robinson and Albert Robinson v Lovett Dental and Dr Larry Freeman*, originally filed in the 125th Judicial District Court of Harris County, Texas and later transferred to the 164th Judicial District Court of Harris County, Texas.

On February 3, 2009, Mr. Robinson filed a second suit against Dr. Freeman and Dr. Ziegenbein, alleging mail fraud as to the attorneys' fees awarded in the case.² On July 20, 2009, the trial court granted the doctors' motions for summary judgment as to all claims of mail fraud.

Mr. Robinson then filed a third lawsuit against Dr. Freeman and Dr. Ziegenbein on February 15, 2011, in which he alleged violations of 18 U.S.C. § 1962 (the Racketeer Influenced and Corrupt Organizations Act, or "RICO"); violations of 42 U.S.C. § 1983; violations of 18 U.S.C. § 873; and medical malpractice.³ The trial court dismissed Mr. Robinson's case for failure to state a claim upon which relief could be granted.⁴

In 2011, Mr. Robinson also attempted to sue the City of Houston and other governmental official entities in federal court.⁵

Mr. Robinson is now attempting to relitigate those claims against Dr. Freeman and Dr. Ziegenbein in this lawsuit. On August 8, 2014, Harris County, on behalf of itself and other county-wide taxing authorities, the City of Houston, Houston Independent School District, and the Houston Community College System (Harris County) filed an original petition for taxes and a claim for City of Houston special assessments against Mr. Robinson. Because of their interest in the taxed property arising from the July 20, 2009, abstract of judgment, Harris County named Dr. Freeman and Dr. Ziegenbein solely as *in rem* Defendants. Harris County is not seeking personal judgment against Dr. Freeman or Dr. Ziegenbein. Mr. Robinson responded on September 26, 2014, by filing his Original Answer and Cross-Claim and Counter-Claim containing the same facts and claims against Dr. Freeman and Dr. Ziegenbein that have been adjudicated on three previous occasions. The doctors now ask this Court to issue an order adjudicating Mr. Robinson as a vexatious litigant.

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.

² Cause No. 2009-06935, *Albert Robinson and Anita Robinson v. Dr. Samantha Sandra Bousigues, Dr. Larry Earl Freeman, and Dr. Kent Ziegenbein*, originally filed in the 129th Judicial District Court of Harris County, Texas and later transferred to the 164th Judicial District Court of Harris County, Texas

³ *Robinson v. Castle*, 2011 WL 3813292 (S.D. Tex. Aug. 29, 2011).

⁴ Mr. Robinson has also engaged in other unsuccessful litigation as a *pro se* plaintiff in the federal system: *Robinson v. Home Depot*, 2011 WL 1935597 (S.D. Tex. 2011) (dismissed for with prejudice for want of prosecution) and *Robinson v. Home Depot*, 478 Fed. Appx. 820 (5th Cir. May 14, 2012) (dismissal affirmed).

⁵ *Robinson v. City of Houston*, 2011 WL 1806427 (S.D. Tex. May 11, 2011).

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. The statute indicates that, during the seven year period immediately preceding the date the defendants file their motion to declare the plaintiff a vexatious litigant, the Court may grant their motion if 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.*

After considering the pleadings of the parties, the argument of counsel, and the applicable authorities, the Court **FINDS:**

- (1) There is no reasonable probability that Mr. Robinson will prevail on his cause of action against Dr. Freeman and Dr. Ziegenbein because his claims have previously been litigated and decided against him. Accordingly, this suit is frivolous and has no arguable basis in law.
- (2) Mr. Robinson has, as a *pro se* litigant, unsuccessfully commenced at least five lawsuits, excluding filings in small-claims court, in the seven-year period immediately preceding the date of the doctors’ motion.

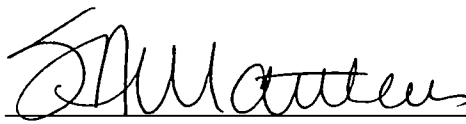
Accordingly, the Court **ORDERS** the motion to declare Albert Robinson to be a vexatious litigant **GRANTED**.

The Court **ORDERS** that Albert M. Robinson is **ADJUDICATED** to be a vexatious litigant.

The Court **ORDERS** the Harris County District Clerk to refuse to file any litigation presented by Albert M. Robinson, unless he first obtains an order from the appropriate local administrative judge permitting the filing.

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

Signed December 18th, 2014


 Sylvia A. Matthews
 Judge Presiding



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 January 2, 2015

Certified Document Number: 63598107 Total Pages: 3

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com