

CAUSE NO. 2015-22882

WHITFIELD, PROPHET RONALD DWAYNE,	§	IN THE DISTRICT COURT OF
	§	
<i>Plaintiff(s),</i>	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
	§	
CENTRAL HOUSTON NISSAN,	§	
<i>Defendant(s).</i>	§	113th JUDICIAL DISTRICT

ORDER

On April 21, 2015, the Plaintiff, Ronald Dwayne Whitfield (Whitfield) a/k/a Prophet Ronald Dwayne Whitfield, filed a *pro se* petition in which he asserts he is indigent and in which he advanced claims against Central Houston Nissan for breach of contract, false advertising, and mail fraud. Specifically, Whitfield argues that the Defendant, Central Houston Nissan (CHN) sent him a promotional advertisement through the mail that advised him that if the enclosed scratch off card had a number that matched his “winning” number, he would be the winner of a cash prize of \$1,000. He claims that, once he contacted CHN, they attempted to sell him a car and gave him a lottery ticket instead of giving him a \$1,000 prize. Claiming “emotional stress” (sic), Whitfield sued for compensatory and punitive damages and asked to prosecute this matter as an indigent.

The Harris County District Clerk (Harris County) filed a contest to his claims of indigence and correctly argued that that Whitfield had completely failed to comply with the requirements of Rule 145(b) of the Texas Rules of Civil Procedure. Specifically, Whitfield had not filed:

[an] affidavit contain[ing] complete information as to the party's identity, nature and amount of governmental entitlement income, nature and amount of employment income, other income, (interest, dividends, etc.), spouse's income if available to the party, property owned (other than homestead), cash or checking account, dependents, debts, and monthly expenses. The affidavit shall contain the following statements: “I am unable to pay the court costs. I verify that the statements made in this affidavit are true and correct.” The affidavit shall be sworn before a notary public or other officer authorized to administer oaths.

TEX. R. CIV. P. 145(b)

Whitfield filed a “First Amended Tex. R. Civ. Pro. Rule 145 Affidavit of Indigency” on September 24, 2015. The amended affidavit fails to meet the requirements of Rule 145(b).

On July 27, 2015, the Court granted a motion for partial summary judgment filed by the Defendant, Central Houston Nissan (CHN). Whitfield did not respond to CHN’s motion and the Court ordered that he “take nothing on his claims of mail fraud against Center Houston Nissan.” On October 27, 2015, CHN filed a second motion for summary judgment asking this Court to Order that Whitfield take nothing on his contract and false advertisement causes of action. On November 4, 2015, Whitefield filed a response to CHN’s First Request for Production and made his own request for production from CHN. As of March 11, 2016, Whitfield has not responded to CHN’s second motion for summary judgment.

PLAINTIFF’S LITIGATION HISTORY

A review of court records and WestLaw reveals that Ronald Dwayne Whitfield has a long history of filing pro set litigation in state and federal courts throughout Texas.

Federal Litigation History. In 2008, when considering Mr. Whitfield’s “Emergency Motion for Injunction,” Judge Janis Graham Jack of the Southern District of Texas, Corpus Christi Division noted as follows:

Movant [Ronald Dwayne Whitfield] is an abusive litigant who has filed over sixty actions in federal district court. *See In re: Ronald Dwayne Whitfield*, No. 2:07-cv-114 (S.D. Tex. Oct. 9, 2007 Order at 2) (“A recent review of Whitfield's litigation history shows that he has filed more than sixty (60) civil actions in federal district court.”). Movant's conduct has resulted in repeated and significant monetary sanctions. *See, e.g., In re Whitfield*, No. 97-00454 (5th Cir. Oct. 30, 1997 Order) (\$100); *Whitfield v. Johnson*, No. 4:94-cv-02767 (S.D. Tex Mar. 5, 2001 Order Striking Pleadings and May 12, 2000 Order Striking Pleadings and Imposing Sanction) (\$1500); *Whitfield v. Ott*, No. 4:00-cv-2367 (S.D. Tex. July 14, 2000 Order) (\$200); *Whitfield v. Johnson*, No. 4:97-cv-3148 (S.D. Tex. April 22, 1999 Order on Motion) (\$200); *Whitfield v. Webb*, No. 4:94-cv-4191 (S.D. Tex. Sept. 20, 1996 Order) (\$25); *Whitfield v. Collins*, No. 4:94-cv-2630 (S.D. Tex. Jan. 9, 1996 Order) (\$50); *Whitfield v. State of Texas, et al.*, No. 1:95-cv-023 (N.D. Tex. Feb. 13, 1995 Order) (\$250). In *In re Whitfield*, No. 97-00454 (5th Cir. Oct. 30, 1997 Order), the Fifth Circuit stated as follows:

We impose upon Whitfield a sanction in the amount of \$100, payable to the Clerk of this court. Until such sanction is paid in full, the Clerk of this

court is directed to accept no further notices of appeal, motions, or other pleadings filed by Whitfield. Even after the sanction is paid, the Clerk of this court is directed to accept no further notices of appeal, motions, or other pleadings from Whitfield unless Whitfield has obtained permission to file them from a judge of this court.

Furthermore, in *Whitfield v. Prasifka, et al.*, No. 2:03-cv-001 (S.D. Tex. Feb. 11, 2003 Order), this Court stated as follows: “[I]t is ORDERED that Plaintiff [Ronald Dwayne Whitfield] is ... barred from filing any pleadings in this division until such time as he can demonstrate that prior financial sanctions [i.e., the sanctions listed above] have been paid in full, except upon written leave of court.”

Finding Whitfield had not provided evidence that he had paid any of his federally ordered sanctions, that court denied his “Emergency Motion.” See *In re Whitfield* 2008 WL 694713 (U.S. Dist. Ct. for the Southern Dist. Of Texas).

Recent State Litigation History. Currently Whitfield has three cases pending before Harris County District Courts. On February 17, 2015, he filed trial court cause number 2015-08974 in the 295th District Court of Harris County against Big Star Honda and an unknown defendant for “civil fraud, breach of contract, declaratory judgment, injunctive relief, and a restraining order. On April 20, 2015, Whitfield filed suit in the 333rd District Court of Harris County against Clear Lake Nissan and Santander Consumer USA as trial court cause number 2015-22666 claiming breach of contract and consumer fraud. Finally, On April 21, 2015, Whitfield filed the above matter in this Court against Central Houston Nissan claiming breach of contract, false advertisement (sic) and mail fraud. All of these matters against various car dealerships remain pending before the Harris County District Courts.

As in the federal system, Whitfield has demonstrated a pattern of filing suits that state courts have found to be meritless and frivolous. While the following list may not be complete, a cursory review of TAMES and DEEDS records indicate that since 2008, the following litigation has been decided against Whitfield:

- (1) *In re Whitfield*, 14-08-00914-CV, 2008 WL 42527699 (Tex. App. – Houston [14th Dist.] Oct. 9, 2008)(original proceeding)(mem. op., not designated for publication). Mandamus denied.
- (2) *In re Whitfield*, 14-08-00915-CV, 2008 WL 42527699 (Tex. App. – Houston [14th Dist.] Oct. 9, 2008)(original proceeding)(mem. op. not designated for publication). Mandamus denied.

- (3) *In re Whitfield*, 14-08-00916-CV, 2008 WL 42527699 (Tex. App. – Houston [14th Dist.] Oct. 9, 2008)(original proceeding) (mem. op. not designated for publication). Mandamus denied.
- (4) *In re Whitfield*, 14-08-00917-CV, 2008 WL 42527699 (Tex. App. – Houston [14th Dist.] Oct. 9, 2008)(original proceeding) (mem. op. not designated for publication). Mandamus denied
- (5) *In re Whitfield*, 14-09-00347-CR, 2009 WL 1150180 (Tex. App. – Houston [1st Dist.] Apr. 30, 2009) (mem. op. not designated for publication). (original proceeding). Mandamus denied.
- (6) *In re Whitfield*, 10-10-00088-CR, 2010 WL 966416 (Tex. App. – Waco March 10, 2010) (original proceeding) (mem. op. not designated for publication). Mandamus petition denied.
- (7) *In re Ronald Dwayne Whitfield*, 01-15-00657-CV, 2015 WL 5136805 (Tex. App. – Houston [1st Dist.] Sept. 1, 2015) (original proceeding) (mem. op. not designated for publication). Mandamus denied. (Arising from *Whitfield v. Big Star Honda*, 295th Dist. Ct. tc# 2015-08974)
- (8) *In re Ronald Dwayne Whitfield*, 01-15-00658-CV, 2015 WL 5136805 (Tex. App. – Houston [1st Dist.] Sept. 1, 2015)(original proceeding)) (mem. op. not designated for publication). Mandamus denied. (Arising from *Whitfield v. Clear Lake Nissan*, 333rd Dist. Ct. tc# 2015-22666)
- (9) *Whitfield v. Big Star Honda*, 01-15-00448-CV, 2015 WL 7300349 (Tex. App. – Houston [1st Dist.] Nov. 19, 2015) (mem. op. not designated for publication) (mem. op. not designated for publication). Dismissed for want of jurisdiction. (Arising from - *Whitfield v. Big Star Honda*, 295th Dist. Ct. tc# 2015-08974).
- (10) *Whitfield v. Clear Lake Nissan*, 01-15-00645-CV, 2015 WL 7300323 (Tex. App. – Houston [1st Dist.] Nov. 19, 2015) (mem. op. not designated for publication). Dismissed for want of jurisdiction. (Arising from - *Whitfield v. Clear Lake Nissan*, 333rd Dist. Ct. tc# 2015-22666).

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 a state or federal court in an action or proceeding based on the same or substantially similar facts, transaction, or occurrence. *See Id.*

FINDINGS

The Court **FINDS**:

- (1) There is not a reasonable probability that Whitfield will prevail in the current litigation.
- (2) Whitfield has a history of filing or repeatedly re-litigating unsuccessful or frivolous suits.
- (3) During the past seven year period Whitfield has “commenced, prosecuted, or maintained at least five litigations as a pro se litigant” that have been “finally determined adversely to him.”
- (4) In an Order issued October 30, 1997, the United States Court of Appeals for the Fifth Circuit sanctioned Whitfield for filing a frivolous appeal and issued a preclusion order directing the clerk of that court “to accept no further notices of appeal, motions or other pleadings from Whitfield” unless he obtained permission to file them from a judge of that court. *In re Whitfield*, No. 97-00454 (5th Cir. Oct. 30, 1997 Order).¹
- (5) Ronald Dwayne Whitfield meets the criteria for finding a plaintiff a vexatious litigant.

Accordingly, the Court *sua sponte* Orders Ronald Dwayne Whitfield a/k/a Prophet Ronald Dwayne Whitfield adjudicated to be a vexatious litigant.

The Court **ORDERS** that Ronald Dwayne Whitfield 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.

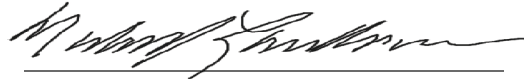
¹ Federal preclusion orders are the functional equivalent of a state order declaring an individual to be a vexatious litigant.

The Court also admonishes Ronald Dwayne Whitfield 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 Ronald Dwayne Whitfield 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 March 11, 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 March 15, 2016

Certified Document Number: 69370121 Total Pages: 6

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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