

**FILED**

Chris Daniel  
District Clerk

MAR - 4 2016

Time: \_\_\_\_\_  
Harris County, Texas  
By \_\_\_\_\_  
Deputy

NO. 2015-22666

**PROPHET RONALD DWAYNE WHITFIELD,**  
**Plaintiff**

vs.

**CLEAR LAKE NISSAN and**  
**SANTANDER CONSUMER USA, INC.**  
**Defendants**

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**IN THE DISTRICT COURT OF**  
**HARRIS COUNTY, TEXAS**  
**333rd JUDICIAL DISTRICT**

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**ORDER**

On the 4<sup>th</sup> day of March, 2016, came on to be heard Santander Consumer USA, Inc.'s Motion to Declare Plaintiff a Vexatious Litigant, Defendants appeared by and through their counsel of record. Although Plaintiff did not file a written response to the Motion, he appeared pro se to orally contest it. The Court, after considering the motion, the oral response, the arguments and the authorities, is of the opinion that the motion should be granted as detailed below.

**BACKGROUND**

On April 20, 2015, the Plaintiff, Prophet Ronald Dwayne Whitfield (Whitfield), brought this lawsuit against Defendants, Clear Lake Nissan (Nissan) and Santander Consumer, USA (Santander) regarding the purchase and financing of a vehicle. Mr. Whitfield's pro se petition asks that he be allowed to proceed as an indigent and complains that Nissan and Santander committed breach of contract and fraud. He has asked the Court to enter a declaratory judgment and to grant injunctive relief.

The record shows that Mr. Whitfield signed an accepted a Motor Vehicle Retail Installment Sale Contract (contract) for the purchase of a vehicle and took possession of that car on or about January 14, 2014. The gravamen of Mr. Whitfield's suit is that the automobile he took possession of is not the vehicle for which he bargained.

Santander filed an answer on June 15, 2015. Arguing that the contract contained an arbitration clause and attaching supporting evidence, Santander filed a motion to compel arbitration and stay the case. Mr. Whitfield did not file a written response to Santander's motion. After considering the record, the Court granted Santander's motion and ordered the case to

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arbitration. The Court's July 24, 2015 Order directed Mr. Whitfield to initiate arbitration on or before August 7, 2015, the fourteenth day after the order was signed. If such arbitration was not initiated in a timely fashion, the Court advised the parties that it would dismiss the case.

Instead of proceeding to arbitration as ordered, Mr. Whitfield attempted to appeal the order, filed a motion to abate the arbitration during the pendency of the attempted appeal, and filed a motion for rehearing or reconsideration of the order compelling arbitration. There is no record of Mr. Whitfield setting his motions for hearing in the trial court.

On November 19, 2015, the court of appeals dismissed Mr. Whitfield's attempted appeal of the Court's order for want of jurisdiction.

Prior to the appeals, Santander had filed a motion to declare Mr. Whitfield a vexatious litigant. After the Mandate of the Court of Appeals, the Motion to Declare Plaintiff a Vexatious Litigant was set for a hearing to be held on March 4, 2016. However, on February 10, 2016, Mr. Whitfield filed a motion to recuse the judges of the 333<sup>rd</sup> and the 295<sup>th</sup> District Courts of Harris County. The judges declined to recuse and the motions were referred to the Presiding Judge of the 2<sup>nd</sup> Administrative Judicial Region. On March 1, 2016, the Presiding Judge overruled the motion to recuse in the above case without a hearing. Thus, the Motion to Declare Plaintiff a Vexatious Litigant was heard on this day, March 4, 2016.

### **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.” *In re Whitfield* 2008 WL 694713 (U.S. Dist. Ct. for the Southern Dist. Of Texas)

Finding Mr. Whitfield had not provided evidence that he had paid any of his federally ordered sanctions, that court denied his “Emergency Motion.” *Id.*

*Recent State Litigation History.* Currently Mr. Whitfield has at least five cases pending before Harris County District Courts. On February 17, 2015, he filed trial court cause number 2015-08974 in the 295<sup>th</sup> 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 6, 2015, Mr. Whitfield filed a cause of action in the 295<sup>th</sup> District Court of Harris County entitled *Prophet Ronald Dwayne Whitfield and the American People v. Honda, the Owner of the Name World-Wide, Big Star Honda, Russell and Smith, and all Other Car Dealership[s] Privately Owned Operating Under Said Name Subject to the Jurisdiction of the United States of North America, and the Reynolds and Reynolds Company*, trial court cause number 2015-19565. In his petition, Mr. Whitfield appears to claim Honda and the printer of the sales agreement form, Reynolds and Reynolds, are defrauding the American people because the sales contract “is designed to deceive them by failing to disclose that the forms/contracts contain an arbitration clause / agreement. He asked the Court for 30 million dollars in damages, court costs.

Several months later, on August 7, 2015, Mr. Whitfield filed a third cause of action in entitled *Whitfield v. First Service Credit Union and Big Star Honda*, trial court cause number 2015-45473. Mr. Whitfield's pleadings again asked for injunctive relief, a declaratory judgment on claims for "breach of contract," an unspecified "legal tort," and "a legal personal injury (sic). On December 7, 2015, the Court granted First Service Credit Union's motion to dismiss Mr. Whitfield's causes of action in 2015-45473 under Rule 91a of the Texas Rules of Civil Procedure. Specifically, the Court dismissed with prejudice Mr. Whitfield's claims for (1) breach of contract; (2) injunctive relief; (c) declaratory relief; (d) fraud by concealment; and (e) an unidentified "tort." The Court further awarded to First Service \$1,750.00 in attorney's fees. Mr. Whitfield file a notice of appeal on December 11, 2015. The remainder of the case remains pending before that Court.

On April 20, 2015, Mr. Whitfield filed this suit in the 333<sup>rd</sup> 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.

On April 21, 2015, Mr. Whitfield filed trial court cause number 2015-22882, in the 113<sup>th</sup> District 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, Mr. Whitfield has a pattern of filing suits that state courts have been 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, Mr. Whitfield has had following litigation decided against him:

- (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*, 295<sup>th</sup> 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 [1<sup>st</sup> 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 [1<sup>st</sup> 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 state or federal 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 Mr. Whitfield will prevail in the current litigation.
- (2) Mr. Whitfield has a history of filing or repeatedly re-litigating unsuccessful or frivolous suits.
- (3) During the past seven year period Mr. 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 Mr. 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. *See In re Whitfield*, No. 97-00454 (5<sup>th</sup> Cir. Oct. 30, 1997 Order)<sup>1</sup>; and
- (5) Ronald Dwayne Whitfield meets the criteria for finding a plaintiff a vexatious litigant.

Accordingly, the Court **ORDERS GRANTED** Santander Consumer USA, Incorporated’s motion to adjudicate Ronald Dwayne Whitfield a/k/a Prophet Ronald Dwayne Whitfield as a vexatious litigant.

The Court **ORDERS** Ronald Dwayne Whitfield must furnish security for the benefit of Santander Consumer USA, Inc., by posting security with the Harris County District Clerk in the amount of \$1,000.00 on or before April 4, 2016, the thirty-first day after this Order is signed.

The Court **ORDERS** that if Ronald Dwayne Whitfield does not furnish the \$1,000.00 security on or before April 4, 2016, the Court will enter an order dismissing this case.

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

The Court ORDERS this cause of action Abated until Ronald Dwayne Whitfield furnishes the ordered \$1,000.00 security or dismissal of the case.

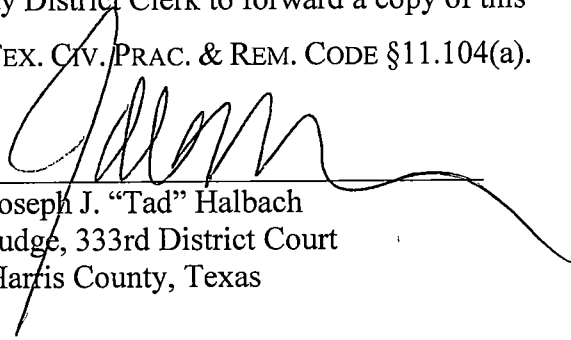
The Court ORDERS that Ronald Dwayne Whitfield is prohibited from filing new litigation in a state court without first obtaining permission from the appropriate local administrative judge. *See* TEX. CIV. PRAC. & REM. CODE §11.101. Such permission shall be granted only if the litigation appears to have merit and is not filed for purposes of harassment or delay; such permission may also be conditioned on the furnishing of a security.

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 4, 2016



Joseph J. "Tad" Halbach  
Judge, 333rd 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 March 17, 2016

Certified Document Number: 69439565 Total Pages: 7

Chris Daniel, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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