

**FILED**

Theresa Chang  
District Clerk

APR 11 2008

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

By \_\_\_\_\_  
Deputy

No. 2007-71369

LYNN LEVIT GOETZ

PLAINTIFF,

v.

JOSEPH SAMUEL GOETZ, ET AL

DEFENDANTS.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

257<sup>TH</sup> JUDICIAL DISTRICT

P. 8

VEXAO  
SBND

**ORDER DECLARING PLAINTIFF A VEXATIOUS LITIGANT  
UNDER CHAPTER 11 OF THE TEX. CIV. PRAC. & REM. CODE**

The Amended Motion to Declare Plaintiff a Vexatious Litigant under TEX. PRAC. & REM. CODE § 11.051, *et seq* and Request for Security Subject to Special Appearances of some of the Defendants of Dr. Joseph S. Goetz ("Dr. Goetz"), Jennifer Webb-Goetz ("Dr. Goetz's wife), Samuel and Gertrude Goetz ("Dr. Goetz's parents"), Allan Africk, Trustee, the 1997 Goetz Family Irrevocable Trust, the 1990 Revocable Goetz Family Trust, and MSJ Partnership (collectively "Defendants") came on for hearing on April 3, 2008 in the above-captioned case. The Court also considered at the hearing the Response that Plaintiff Lynn Goetz filed with the Court on morning of the hearing. After considering the Defendants' Amended Motion and the Plaintiff's Response, the exhibits contained in Defendants' Addendum to their Amended Motion ("the Addendum"), the evidence and testimony provided by the parties during the hearing, and the arguments of counsel, the Court concludes that the Plaintiff is a vexatious litigant as that term is defined in chapter 11 of the Texas Practice and Remedies Code based upon the following findings of fact and conclusions of law:

1. Pursuant to TEX. PRAC. & REM. CODE § 11.054, Defendants have shown that there is not a reasonable probability that Plaintiff Lynn Goetz will prevail in this lawsuit and, in the seven-year period immediately preceding the Defendants' initial request on January 4,

2008 and Amended Motion on March 11, 2008 to declare Plaintiff Lynn Goetz a vexatious litigant under TEX. PRAC. & REM. CODE § 11.051, *et seq*, Plaintiff Lynn Goetz has commenced, prosecuted or maintained in *propria person* at least five litigations other than in small claims court that have been

A. finally determined adversely to Plaintiff Lynn Goetz. Those litigations include the following:

- i. The U.S. Bankruptcy Court Order (Exhibit 4 of the Addendum) dismissing the contested matter between Plaintiff Lynn Goetz and Dr. Goetz in regard to the plaintiff's *pro se* Amended Proof of Claim (Exhibit 3 of the Addendum) in the amount of "at least" \$1,113,275 against Dr. Goetz in chapter 11 case no. 03-39850-H3-11 in the United States Bankruptcy Court for the Southern District of Texas, Houston Division. The Bankruptcy Court Order is final and non-appealable.
- ii. The U.S. Bankruptcy Court Memorandum Opinion and Final Judgment (Exhibit 6 of the Addendum) dismissing Plaintiff Lynn Goetz's *pro se* complaint (Exhibit 5 of the Addendum) in adversary proceeding 05-3028 styled *Lynn Rae Levit Goetz v. Joseph Samuel Goetz* in the United States Bankruptcy Court for the Southern District of Texas, Houston Division. That Bankruptcy Court judgment is final and non-appealable.
- iii. The U.S. Bankruptcy Court Memorandum Opinion and Final Judgment (Exhibit 8 of the Addendum) dismissing Plaintiff Lynn Goetz's complaint (Exhibit 7 of the Addendum) in adversary proceeding 05-3490 styled *Lynn Rae Levit Goetz v. Joseph Samuel Goetz* in the United States Bankruptcy Court for the Southern District of Texas, Houston Division. Although Plaintiff Lynn Goetz was represented by counsel when she filed the complaint in that proceeding, her counsel withdrew and Plaintiff Lynn Goetz proceeded *pro se*. The Bankruptcy Court's judgment is final and non-appealable.
- iv. The U.S. District Court Memorandum on Dismissal and Order of Dismissal (Exhibit 10 of the Addendum) in civil action 07-0838 styled *Lynn Goetz v. MSJ Partnership, et al* that Plaintiff Lynn Goetz commenced *pro se* in the United States District Court for the Southern District of Texas, Houston Division. The U.S. District Court's dismissal order is final and non-appealable.
- v. The 55<sup>th</sup> District Court's judgment (Exhibit 11 of the Addendum) against Plaintiff Lynn Goetz and her *pro se* non-suit of her counterclaims (Exhibit 12 of the Addendum) in cause no. 2007-58388 styled *Hancock Law Firm LLC, et al v. Lynn Rae Levit Goetz* in the 55<sup>th</sup> District Court of Harris County,

Texas. The District Court's judgment against Plaintiff Lynn Goetz is final and non-appealable.

- vi. The U.S. District Court Order of Remand (Exhibit 14 of the Addendum) in civil action 07-0837 styled *Lynn Goetz v. Kelly Heallen dba Craig & Heallen, LLP* commenced by Plaintiff Lynn Goetz *pro se* in the United States District Court for the Southern District of Texas, Houston Division. The District Court's Order of Remand terminating that civil action is final and non-appealable.
- vii. The U.S. District Court Memorandum and Order of Dismissal (Exhibit 15 of the Addendum) in civil action 07-0805 styled *Lynn Goetz v. Craig & Heallen and Whitney National Bank* commenced by Plaintiff Lynn Goetz *pro se* in the United States District Court for the Southern District of Texas, Houston Division. The District Court's Order of Dismissal is final and non-appealable.
- viii. The U.S. District Court Order (Exhibit 17 of the Addendum) dismissing civil action 07-853, styled *Lynn Levit Goetz v. Joseph Samuel Goetz* commenced by Plaintiff Lynn Goetz *pro se* in the United States District Court for the Southern District of Texas, Houston Division. The District Court's dismissal order is final and non-appealable.

2. After this Court approved the judgment against Plaintiff Lynn Goetz in *Lynn Levit Goetz v. Joseph Samuel Goetz*, cause no. 99-53560 (Exhibit 1 of the Addendum) and finally determined that litigation against her, Plaintiff Lynn Goetz has repeatedly relitigated against Dr. Joseph Goetz in cause no. 2006-35680 in the 129th District Court of Harris County, Texas and in this case, or attempted to relitigate, in *propria persona*, against all of the Defendants here in civil action 07-0838 styled *Lynn Goetz v. MSJ Partnership, et al* in the U.S. District Court for the Southern District of Texas and in this case,

A. the validity of this Court's determination against Plaintiff Lynn Goetz in cause no. 99-53560 (Exhibit 1 of the Addendum) and the U.S. District Court's determination in its Memorandum on Dismissal and Order of Dismissal in civil action 07-0838 (Exhibit 10 of the Addendum).; and

B. the same causes of action, controversies and issues of fact and law determined by this Court's judgment in cause no. 99-53560 (Exhibit 1 of the Addendum) and the U.S. District Court's Memorandum on Dismissal and Order of Dismissal in civil action 07-0838 (Exhibit 10 of the Addendum).

3. Plaintiff Lynn Goetz has previously been declared to be a vexatious litigant by the following federal courts in proceedings that are based on the same or substantially similar facts or occurrences to those involved in this case:

A. U.S. District Judge Lee Rosenthal:

“This is one of several cases [plaintiff Lynn] Goetz has filed in the Southern District of Texas challenging state court proceedings involving child support and related matters on federal constitutional grounds. See *Goetz v. Craig & Heallen LLP and Whitney National Bank*, 07-0805; *Goetz v. Kelly Heallen/Craig & Heallen LLP*, 07-837; and *Joseph Samuel Goetz v. Lynn Levit Goetz*, 07-853. In 07-805, Goetz sought the same relief she seeks in this court, to have the garnishment writ issued in the state court dissolved. The first suit was dismissed for lack of federal court subject matter jurisdiction. The same result applies here. [ . . . ]”

“Moreover, this claim is the same claim that Goetz has raised in three other cases filed in this district, one of which has already been dismissed for lack of subject-matter jurisdiction. Although courts liberally construe the pleadings filed by *pro se* litigants, *Haines v. Kerner*, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972), dismissal of duplicative or repetitious litigation of identical causes of action is appropriate. See *Bailey v. Johnson*, 846 F.2d 1019, 1021 (5th Cir.1988) (holding that a complaint that repeats pending or previously litigated claims “may be considered abusive and dismissed under the authority of section 1915(e)”; see *Pittman v. Moore*, 980 F.2d 994, 994-95 (5th Cir.1993).”

“This case is dismissed for lack of subject matter jurisdiction and as duplicative of other cases. Goetz is admonished that continued filing of repetitive suits may result in an order barring her from filing future suits without advance permission from a United States Magistrate Judge or District Judge. Additionally, continued frivolous suits may subject her to sanctions.”

“This case is dismissed as repetitive, duplicative, and as lacking in subject matter jurisdiction.”

*Memorandum of Dismissal of U.S. District Judge Lee Rosenthal dated March 26, 2007*, in civil action no. 07-0838 in the United States District Court for the Southern District of Texas, Houston Division. Exhibit 10 of the Addendum.

B. U.S. Bankruptcy Judge Letitia Z. Clark:

“The issues raised in this adversary proceeding [05-3490], as well as Plaintiff’s filings in the main case, and Adversary 05-3028, arise out of the state court divorce case. The court notes that the Plaintiff has engaged in a practice of filing repetitive pleadings in the Debtor’s main case bankruptcy proceeding and in a number of

adversary proceedings, *all of which appear to arise out of her dissatisfaction with the outcome of the state court divorce case.*" [emphasis supplied].

*Memorandum Opinion of U.S. Bankruptcy Judge Letitia Clarke* dated March 30, 2006, dismissing adversary proceeding 05-3490 in the U.S. Bankruptcy Court for the Southern District of Texas, Houston Division. Exhibit 8 of the Addendum.

C. U.S. District Judge Kenneth Hoyt:

"The defendant was the attorney for Lynn Goetz in a state court family law matter. Although the family law matter has concluded, remnants of ill-will against the defendant remain and have manifested themselves in several suits by the plaintiff against the defendant, her law firm, and her ex-husband. This ill spirit has also found cause in her ex-husband's bankruptcy case. In all this the plaintiff has not found peace, and continues to file suit(s) even though each has been dismissed after removal." [ . . . ]

"The Court finds that no less than four (4) cases have been removed to federal court. Certainly, after the dismissal of at least two of these cases, the plaintiff would have read the statute that addresses who may remove a case from state court. Hence, the Court determines an award of an attorney's fee is appropriate in the amount of \$3,750.00. This conclusion is appropriate because the plaintiff's "doings," the removal of her own case, was improper and constituted a frivolous removal."

"In addition, because this suit is one of four that has been removed, a pattern has emerged. That pattern shows the plaintiff filing suit in state court against her former attorneys. After issues are joined, the case is then removed. *This conduct is vexatious and illegal.* [emphasis supplied]. Therefore, the Court PROHIBITS the plaintiff or her representative from filing suit or removing a state court suit, that involves her former attorneys, to federal court without specific permission from this Court."

*Order for Remand of U.S. District Judge Kenneth Hoyt dated May 21, 2007*, in civil action no. 07-0837 in the United States District Court for the Southern District of Texas, Houston Division. Exhibit 14 of the Addendum.

4. The Defendants original request to declare Plaintiff Lynn Goetz a vexatious litigant under chapter 11 of the Texas Practice and Remedies Code and their Amended Motion seeking the same relief were both filed before the 90<sup>th</sup> day after the date Defendants filed their Original Answers or Special Appearances.

5. Based on the foregoing findings of fact and conclusions of law, and the evidence and argument adduced at the hearing on April 3, 2008, the Court finds and concludes that Plaintiff Lynn Goetz is a vexatious litigant for purposes of chapter 11 of the Texas Practice and Remedies Code. Accordingly, it is

**ORDERED, ADJUDGED AND DECREED THAT:**

Pursuant to TEX. PRAC. & REM. CODE § 11.055, Plaintiff Lynn Goetz shall deposit and have approved by the District Clerk of Harris County a surety bond, or cash in lieu of a surety bond, in the amount of \$750,000.00 to assure payment of Defendants' attorney's fees, costs and related legal expenses in this case or any other litigation that Plaintiff Lynn Goetz may file against the Defendants in this case. Any such surety bond or cash in lieu of a surety bond shall be in conformance with the Local Rules of the Civil Courts for Harris County, Texas and approved by the District Clerk of Harris County;

The deadline for Plaintiff Lynn Goetz to deposit and have the District Clerk approve the above-described surety bond or cash in lieu of such surety bond is 5 p.m., May 2, 2008;

Pursuant to TEX. PRAC. & REM. CODE § 11.056, Defendants' counsel is directed to provide this Court with an Order of Dismissal of this case with prejudice if Plaintiff Lynn Goetz fails to deposit and have approved by the District Clerk of Harris County a surety bond, or cash in lieu of a surety bond, in the amount of \$750,000.00 by 5 p.m., May 2, 2008;

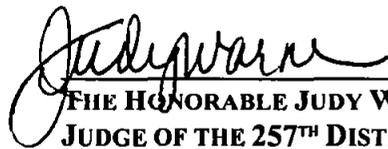
Pursuant to TEX. PRAC. & REM. CODE § 11.101, *et seq.*, and the inherent power of this Court to regulate vexatious litigation, Plaintiff Lynn Goetz shall not file or commence any further lawsuit in the Courts of the State of Texas against any Defendant in this case unless and until the Chief Administrative Judge of Harris County, Texas, after notice and hearing to any such Defendant, determines that such further lawsuit (1) has merit, (2) is not being pursued for the purposes of harassment or delay, and (3) the amount of security, if any, that the Plaintiff Lynn Goetz will be

required to furnish for the benefit of any Defendant as a condition of being allowed to pursue such lawsuit; and

The District Clerk is directed to comply with the provisions of TEX. PRAC. & REM. CODE § 11.104(a) in providing a copy of this pre-filing order to the Office of Court Administration of the Texas Judicial System.

Dated: April 11, 2008  
Houston, Texas

APR 11 2008

  
THE HONORABLE JUDY WARNE,  
JUDGE OF THE 257<sup>TH</sup> DISTRICT COURT

APPROVED:



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I, Theresa Chang, 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: \_\_\_\_\_

THERESA CHANG, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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