

P-4
VEXAO

NO. 2008-29781

REV. DENINAH WEBB-GOODWIN,
Plaintiff

vs.

SAN JACINTO METHODIST
HOSPITAL OF BAYTOWN, ET AL.,
Defendants

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

295th
~~117~~th **JUDICIAL DISTRICT**

F I L E D
Chris Daniel
District Clerk

DEC 15 2011

Time
By
Deputy

ORDER

On May 14, 2008, the Reverend Deninah Webb-Goodwin (Webb-Goodwin), Plaintiff, filed her petition in the above case. Rev. Webb-Goodwin's initial claims were against San Jacinto Methodist Hospital of Baytown (San Jacinto), Dr. Hsiao C. Tang, Dr. Dr. Magdy Abbellarayed, Dr. Anwar Shari (the original doctors), and Dr. Atef Rizzkallah. Her petition stated claims for medical malpractice, misdiagnosis, negligence, and for the wrongful death of her mother, Hattie Goodwin. Since Rev. Webb-Goodwin's causes of action were health care liability claims governed by Chapter 74 of the Texas Civil Practice and Remedies Code, she was required to file an expert report within 120 days after filing suit. She failed to do so.

On March 29, 2010, the Court signed orders dismissing Rev. Webb-Goodwin's claims against all the named defendants except Dr. Atef Rizzkallah. There is no record that Rev. Webb-Goodwin ever served her petition on Dr. Rizzkallah and he never filed an answer. On April 13, 2011, Rev. Webb-Goodwin filed her fourth amended petition adding many other defendants to the suit, including St. Luke's Episcopal Hospital and St. Luke's Episcopal Health System (St. Luke's). On October 11, 2011, St. Luke's filed its motion asking this Court to declare Rev. Webb-Goodwin a vexatious litigant and to request security.

On November 28, 2011, the Court held a hearing on St. Luke's motion at which Rev. Webb-Goodwin and counsel for the defendants were present. After hearing arguments, the evidence presented, the parties pleadings, reviewing the Court's files, and the applicable authorities, the Court Finds St. Luke's motion should be granted.

Chapter 11 of the Texas Civil Practice and Remedies Code governs suits brought by vexatious litigants. the court may, on defendant's motion or *sua sponte*, designate a party as a

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vexatious litigant. TEX. CIV. PRAC. REM. CODE § 11.101. A party may be declared a vexatious litigant if there **is no** 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 further indicates that the court must also find that:

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 in propria personal at least five litigations other than in small claims court that have been:

- (A) finally determined adversely to the plaintiff;
 - (B) permitted to remain pending at least two years without having been brought to trial or hearing; or
 - (C) determined by a trial or appellate court to be frivolous or groundless under state or federal laws or rules of procedure;
- TEX. CIV. PRAC. & REM. CODE § 11.054

The record indicates that, within the last seven years, Rev. Webb-Goodwin has represented herself in at least six unsuccessful litigations. Within the designated time period she filed at least one action in Louisiana.

Cause #	Style	Court / Judge	Judgment
04-26161 c/w 04-1785	<i>Webb-Goodwin v. Blaine Austin, et al.</i>	U.S.D.C. Eastern Dist. LA Mary Ann Vial Lemmon	11/08/06 Dismissed w/prejudice

Previously, she attempted to litigate this case against San Jacinto Hospital and the original doctors in the federal courts:

Cause #	Style	Court / Judge	Judgment
H-08-0149	<i>Webb-Goodwin v. San Jacinto Hospital, et al.</i>	U.S.D.C. Southern Dist. Lynn Hughes	04/15/08 Dismissed w/o/j
H-08-1461	<i>Webb-Goodwin v. San Jacinto Hospital, et al.</i>	U.S.D.C. Southern Dist. David Hittner	05/28/08 Dismissed w/o/j

The record also indicates that Rev. Webb-Goodwin has filed at least four other unsuccessful / frivolous *pro se* suits in various state and federal courts in Texas:

Cause #	Style	Court / Judge	Judgment
H-07-0149	<i>Webb-Goodwin v. Wells Fargo</i>	U.S.D.C. Southern Dist. Melinda Harmon	04/07/08 Dismissed w/o/p

4:09-mc-00610	<i>Webb-Goodwin v. City of Baytown.</i>	U.S.D.C. Southern Dist. Lynn Hughes	02/01/08 Dismissed w/o/p & failure to state a claim
H-10-0149	<i>Webb-Goodwin v. Baytown Housing Authority.</i>	U.S.D.C. Southern Dist. Melinda Harmon	04/03/08 Dismissed w/o/j
2009-63569	<i>Webb-Goodwin v. City of Baytown Health Dept.</i>	190 th District Court Patricia Kerrigan	07/22/10 Dismissed w/o/p

Accordingly, after reviewing the record and all the pleadings in the case, this Court **FINDS** that there **is not** a reasonable probability that Deninah Webb-Goodwin will prevail.

The Court also **FINDS** that Deninah Webb-Goodwin has commenced at least six *pro se* actions (excluding actions in small claims court) that have been finally determined against her; and / or permitted to remain pending for at least two years without having been brought to trial; and / or determined by a trial or appellate court to be frivolous under state or federal law.

The Court also **FINDS** that Rev. Deninah Webb-Goodwin is:

- 1) re-litigating or is attempting to re-litigate *pro se*, the validity of the determination the health care claims decided in favor of San Jacinto Methodist Hospital of Baytown (San Jacinto), Dr. Hsiao C. Tang, Dr. Dr. Magdy Abbellarayed, Dr. Anwar Shari (the original doctors), and Dr. Atef Rizzkallah; and
- 2) attempting to relitigate the cause of action and /or any issue of fact or law against San Jacinto Methodist Hospital of Baytown (San Jacinto), Dr. Hsiao C. Tang, Dr. Dr. Magdy Abbellarayed, Dr. Anwar Shari (the original doctors), and Dr. Atef Rizzkallah.

After reviewing the record and considering the motions, the court **FINDS REV. DENINAH WEBB-GOODWIN** is a vexatious litigant.

The Court **ORDERS** that **REV. DENINAH WEBB-GOODWIN** is prohibited from filing *in propria persona* any new litigation in Texas without first being granted permission to file by the local administrative judge. 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. *See* TEX. CIV. PRAC. & REM. CODE § 11.054.

The Court **ORDERS REV. DENINAH WEBB-GOODWIN** to provide security for the benefit of St. Luke's in the amount of \$4,000 on or before January 7, 2012. Such security shall be paid to

the Harris County District Clerk and placed in the registry of the Court. This security required to assure payment to St. Luke's expenses incurred in or in connection with this litigation, including costs and attorneys fees. *See* TEX. CIV. PRAC. & REM. CODE § 11.055.

The Court **FURTHER ORDERS** that all matters in this case shall be stayed until such time as **REV. DENINAH WEBB-GOODWIN** provides the security ordered above.

REV. DENINAH WEBB-GOODWIN is hereby **NOTIFIED** that if she fails to furnish the security within the time set by this Order, the Court shall dismiss this cause. *See* TEX. CIV. PRAC. & REM. CODE § 11.056.

December 15, 2011
Date

Caroline Baker
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 December 16, 2011

Certified Document Number: 50831393 Total Pages: 4

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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