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FILED

CAUSE NO. 19-0841

2020 JAN 14 PM 3: 24

KYLE MCCARRELL,

Plaintiff,

v.

CICI'S PIZZA A/K/A
CICI'S ENTERPRISES LP A/K/A
JMC RESTAURANT DISTRIBUTION INC.,

Defendants.

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IN THE DISTRICT COURT OF *ROBERTA Cronley*
DISTRICT CLERK
HAYS COUNTY, TEXAS

HAYS COUNTY, TEXAS

274th JUDICIAL DISTRICT

**ORDER GRANTING DEFENDANT'S MOTION TO DECLARE
PLAINTIFF KYLE MCCARRELL A VEXATIOUS LITIGANT, TO REQUIRE
SECURITY, AND TO PROHIBIT FILING OF NEW LITIGATION
WITHOUT JUDICIAL PERMISSION**

On October 30, 2019, by oral hearing, and after allowing the parties to submit additional briefing, came before the Court Defendant's *Motion to Declare Plaintiff Kyle McCarrell a Vexatious Litigant, to Require Security, and to Prohibit Filing of New Litigation without Judicial Permission*. Upon consideration of the pleadings, including the Motion, the Amended Response, and any Replies thereto, as well as, the evidence, cited authorities, and argument of counsel and the *pro se* Plaintiff, the Court finds as follows:

1. The Court takes judicial notice of an order entered on October 28, 2019, in *Kyle Jason McCarrell v. Dunham & Jones, Attorneys at Law, P.C. and James Erickson*, No D-1-GN-19-006982, declaring Plaintiff Kyle McCarrell ("McCarrell") to be a vexatious litigant in another case.
2. The Court SUSTAINS CiCi Enterprises objection to Plaintiff's Amended Pleading under section 11.052 of the Civil Practice and Remedies Code because the filing of CiCi Enterprises' Vexatious Litigant Motion stayed the litigation. Tex. Civ. Prac. & Rem. Code § 11.052.
3. The Court SUSTAINS CiCi Enterprises objections to the Affidavits of Kyle McCarrell.

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The Court further finds that:

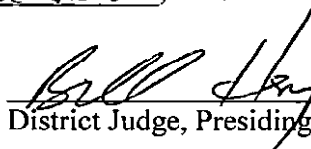
4. There is no reasonable probability that Plaintiff will prevail on the merits in the litigation against Defendant; and
5. In the seven-year period immediately preceding the date Defendant filed its Motion, the Plaintiff has commenced, prosecuted, or maintained at least five litigations as a *pro se* litigant other than in small claims court that have been:
 - a. Finally determined adversely to 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 law or rules of procedure.

It is therefore ORDERED that Defendant's *Motion to Declare Plaintiff Kyle McCarrell a Vexatious Litigant, to Require Security, and to Prohibit Filing of New Litigation without Judicial Permission* is hereby GRANTED. It is further ORDERED that the Plaintiff must furnish security in the amount of \$ 500 on or before March 18, 2020.

It is further ORDERED that if the Plaintiff fails to furnish security on or before said date, this case shall be DISMISSED with prejudice, without further order of this Court.

It is further ORDERED that, pursuant to Section 11.101(a), Texas Civil Practice and Remedies Code, the Plaintiff is prohibited from filing, pro se, any new litigation without first obtaining permission to file such litigation, as set forth in Section 11.102, Texas Civil Practice and Remedies Code. The District Clerk is ORDERED to provide the Office of Court Administration of the Texas Judicial System a copy of this order not later than the 30th day after this order is signed.

SIGNED on this 18 day of December, 2019.


District Judge, Presiding