

Cause No. DC-12-002306-C

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| NIVA PATEL | § | IN THE DISTRICT COURT |
| | § | |
| vs. | § | DALLAS COUNTY, TEXAS |
| | § | |
| FEDERAL HOME LOAN | § | |
| MORTGAGE CORP et al | § | 68 th JUDICIAL DISTRICT |

ORDER ON VEXATIOUS LITIGANT MOTION

On this day, the Court considered the *Vexatious Litigant Motion (Motion)* filed by Defendant Dallas County Justice of the Peace Precinct One, Place 2 Katy Hubener (Defendant), against Plaintiff Niva Patel (Plaintiff). Defendant appeared by and through the Criminal District Attorney of Dallas County. Plaintiff, who is acting pro se, was given proper notice of the hearing and appeared/did not appear.

The Court takes judicial notice that Defendant's *Motion* was originally filed on March 12, 2012, and supplemented by filing on March 30, 2012.

After considering the evidence, arguments of the parties, and all documents on file with the Court, the Court is of the opinion that the *Motion* is well-taken and should be GRANTED.

The Court finds that Plaintiff is a Plaintiff who has commenced or maintained a litigation, as defined in section 11.001(5) of the Texas Civil Practice and Remedies Code, and that Defendant is a person against whom Plaintiff has commenced or maintained a litigation as defined by section 11.001(1) of the Civil Practice and Remedies Code.

The Court finds that Defendant's *Motion* was timely filed under section 11.051(1) of the Civil Practice and Remedies Code.

The Court finds that there is no reasonable probability that Plaintiff will prevail in the current litigation before the Court in Cause No DC-12-002306, styled *Niva Patel vs. Federal Home Loan Mortgage Corp. et al.*

The Court finds that Plaintiff has, under section 11.054(1) of the Texas Civil Practice and Remedies Code, in the seven (7) year period immediately preceding the filing of Defendant's *Motion*, commenced, prosecuted, or maintained, in propria persona, at least five litigations other than in small claims court that have been finally determined adversely to Plaintiff;

The Court further finds that Plaintiff has, under section 11.054(3) of the Texas Civil Practice and Remedies Code, been previously declared to be a vexatious litigant by the Honorable Sally Montgomery of Dallas County Court at Law No. 3 in Cause No. cc-11-05737-C, styled *Wells Fargo Bank, N.A., vs. Niva Patel*, and that the action in that

case is based upon the same or substantially similar facts, transactions, or occurrences as the matter before the Court.

IT IS THEREFORE ORDERED, ADJUDGED, and DECREED that Defendant's *Vexatious Litigant Motion* is hereby GRANTED.

IT IS FURTHER ORDERED that the Court declares Plaintiff Niva Patel to be a vexatious litigant under Chapter 11 of the Texas Civil Practice and Remedies Code.

IT IS FURTHER ORDERED that under section 11.055 of the Texas Civil Practice and Remedies Code, Plaintiff must furnish security in the amount of \$ 5000 for the benefit of Defendant, which sum is reasonably necessary to assure payment to Defendant of Defendant's reasonable expenses incurred in or in connection with the litigation commenced, caused to be commenced, or maintained by Plaintiff.

IT IS FURTHER ORDERED that reasonable security shall consist of cash to be paid in the registry of the Court for the benefit of Defendant, or a bond in favor of Defendant filed with the Clerk of the Court undertaken by persons who demonstrate ownership of liquid and unencumbered assets that are non-exempt under federal or state law of at least twice the amount of the security ordered to be furnished by the Court, payable for the benefit of Defendant, subject only to Plaintiff's prevailing in a final determination of her claims as set forth in her pleadings on file with the Court.

IT IS FURTHER ORDERED that before any bond provided by Plaintiff shall be accepted, an application for the approval of said bond shall be filed with notice to Defendant, and at hearing upon such application, the Court shall determine the adequacy of the undertaking.

IT IS FURTHER ORDERED that if Plaintiff fails to post adequate security with the Court within 14 days of the signing of this *Order*, Plaintiff's suit will be dismissed in its entirety pursuant to section 11.056 of the Texas Civil Practice and Remedies Code.

IT IS FURTHER ORDERED that if Plaintiff timely provides the security herein required and the litigation is later decided on the merits against Plaintiff, Defendant shall have recourse to the security furnished under this order.

IT IS FURTHER ORDERED that Plaintiff is prohibited from filing, *in propria persona*, any new litigation in a court in this State without the written permission of a local administrative judge in the jurisdiction where she attempts to file such litigation. The local administrative judge may condition pre-filing permission on the furnishing of security for the benefit of defendant(s) or other conditions as provided by Subchapter B of Chapter 11 of the Texas Civil Practice and Remedies Code.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to notify the Office of Court Administration of this Court's declaration of Niva Patel as a vexatious litigant.

A violation of this *Order* may be punished by contempt of court in addition to other remedies provided by the Texas Civil Practice and Remedies Code.

DATE: June 4, 2012



PRESIDING JUDGE