

entered
9/8/06

STEPHEN N. LISSON,
Plaintiff

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IN THE DISTRICT COURT,

v.

TRAVIS COUNTY, TEXAS

SEP 08 2006

MARY PADGETT, ED PADGETT,
CHRIS PADGETT, and ED PADGETT
COMPANY,

Defendants

353rd JUDICIAL DISTRICT

WL7053PG134

**ORDER GRANTING DEFENDANTS' MOTION TO DECLARE
PLAINTIFF A VEXATIOUS LITIGANT and REQUEST FOR SECURITY
and PREFILING ORDER**

On the 27th day of July, 2005 came on to be heard *Defendants' Motion to Declare Plaintiff a Vexatious Litigant and Request for Security* (the "Motion") and came the Defendants, represented by and through their attorneys of record, and Plaintiff, Stephen N. Lisson, representing himself pro se and announced ready. The Court proceeded to hear and consider such Motion, Plaintiff's Response thereto in light of the evidence offered at the hearing and the arguments of the parties, and the Court finds that the law and the facts are with the Defendants and that the Motion is well taken and should be GRANTED. The Court finds the following in support of its ruling:

1. The Motion was made on or before 90 days after the date that the Defendants filed their *Defendants' Special Exceptions, Original Answer and Original Counterclaim* in the above-captioned cause, as required by Texas Civil Practice and Remedies Code Section 11.051 (the "Code").

FILED

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Wanda T. ...
DISTRICT CLERK
TRAVIS COUNTY, TEXAS

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2. Plaintiff sued the Defendants in this lawsuit for allegedly improperly retaliating against Plaintiff pursuant to Section 92.331 *et seq* of the Texas Property Code.

3. There is not a reasonable probability that the Plaintiff will prevail in this litigation against the Defendants because (a) Plaintiff held over after the lease between Plaintiff and Defendant, Mary Padgett, expired (the "Lease"); (b) Plaintiff held over after Defendants gave notice of termination pursuant to the terms of the Lease; and (c) Defendants did not retaliate against the Plaintiff by filing an eviction proceeding because Defendants instituted the eviction proceeding against Plaintiff for one or more of the grounds set forth in Section 92.332 of the Texas Property Code. Because the foregoing acts are "nonretaliation," as that term is defined by Section 92.332 of the Texas Property Code, there is not a reasonable probability that Plaintiff will prevail in his action against Defendants.

4. The Plaintiff, in the seven (7) year period immediately preceding the date of the Motion, has commenced, prosecuted, or maintained in propria persona at least five (5) litigations other than in a small claims court, which cases are more particularly described below:

(i) At least two (2) cases have been finally determined adversely to Plaintiff, which cases are as follows:

- (I) Cause No. GN200898; Stephen N. Lisson v. University of Texas Investment Management Company, District Courts of Travis County, Texas: Final Summary Judgment in favor of Defendant against the Plaintiff. Plaintiff appealed to the Third District Court of Appeals and the Third District Court of Appeals affirmed; and
- (II) Cause No. GN201604; Stephen N. Lisson v. Texas Growth Fund, District Courts of Travis County, Texas: Final Summary Judgment in favor of Defendant against the Plaintiff. Plaintiff appealed to the Third District Court of Appeals and the Third District Court of Appeals affirmed.

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(ii) At least three (3) cases have permitted to remain pending at least two years without having been brought to trial or hearing, which cases are as follows:

- (I) Cause No. GN201862; Stephen N. Lisson v. John Cornyn, In the District Courts of Travis County, Texas. On August 20, 2002, the Court sustained Defendant's Special Exceptions to Plaintiff's Original Petition. No activity has occurred in the case since that time according to the Court's docket;
- (II) Cause No. GN200856; Stephen N. Lisson v. The University of Texas at Austin; In the District Courts of Travis County, Texas. The last filing on the Court's docket was Plaintiff's Motion to Compel Defendant to Respond to Plaintiff's First Request for Production which was filed on July 30, 2002. No activity has occurred in the case since that time according to the Court's docket; and
- (III) Cause No. GN200899; Stephen N. Lisson v. University of Texas System; In the District Courts of Travis County, Texas. The last filing on the Court's docket was Plaintiff's Motion to Compel Defendant to Respond to Plaintiff's First Request for Production which was filed on July 30, 2002. No activity has occurred in the case since that time according to the Court's docket.

4. Additionally, another lawsuit between the parties was finally determined against the Plaintiff, and the Plaintiff repeatedly relitigates or attempts to relitigate, pro se, the validity of the Court's determination.

5. The Court further finds that the sum of Twelve Thousand and No/100 Dollars (\$12,000.00) is a reasonable and necessary sum to cover the reasonable expenses, including costs and attorneys' fees, that have been incurred or that will be incurred by Defendants in connection with Defendants' defense of this lawsuit.

Based upon the foregoing findings, the Court **GRANTS** the Motion and hereby **DECLARES** Plaintiff, Stephen N. Lisson, to be a vexatious litigant and orders Plaintiff to obtain and file a bond for the benefit of the Defendants in a form approved by the Clerk of the Court in the amount of Twelve Thousand and No/100 Dollars (\$12,000.00) (the "Security") by **August 22, 2005**, to

guarantee payment to Defendants for reasonable expenses, including their costs and attorneys' fees incurred in the defense of this lawsuit. The Security is an undertaking by the Plaintiff to assure payment to the Defendants of Defendants' reasonable expenses incurred or in connection with a litigation commenced, caused to be commenced, maintained or caused to be maintained by the Plaintiff, including costs and attorneys' fees. If Plaintiff does not furnish the Security on or before August 22, 2005, the Court shall dismiss this litigation as to the Defendants.

IT IS FURTHER ORDERED that Plaintiff, Stephen N. Lisson, is prohibited from filing, in propria persona, a new litigation in a court in this State without the permission of the local administrative judge of the court in which the Plaintiff intends to file the litigation pursuant to Section 11.102 of the Texas Civil Practice and Remedies Code. The Clerk of this Court is hereby ORDERED to provide the Office of Court Administration of the Texas Judicial System a copy of this Order.

SIGNED THIS THE 2nd DAY OF September, 2005.

Charles F. Campbell
Hon. Charles Campbell, Presiding Judge