

NO. 2015-05657

ALI YAZDCHI	§	IN THE DISTRICT COURT OF
	§	
V.	§	HARRIS COUNTY, TEXAS
	§	
BBVA COMPASS BANK	§	151 ST JUDICIAL DISTRICT

**ORDER GRANTING COMPASS BANK’S MOTION TO DECLARE
PLAINTIFF TO BE A VEXATIOUS LITIGANT**

On February 2, 2015, Ali Yazdchi (“**Yazdchi**”) filed this suit-against Compass Bank d/b/a BBVA Compass (incorrectly named as BBVA Compass Bank) (“**Compass Bank**”), alleging various claims. On April 29, 2015, Compass Bank filed a motion asking this Court to issue an order adjudicating the Plaintiff, Ali Yazdchi (“**Yazdchi**”), to be a vexatious litigant and requiring, among other things, Yazdchi to furnish security before being allowed to prosecute the above matter. The Court notes that on April 28, 2015, the 11th District Court in Harris County granted a similar motion finding Yazdchi to be a vexatious litigant and on July 10, 2015, the 215th District Court in Harris County granted a similar motion.

After reviewing the record, the pleadings, the evidence presented, and the applicable authority, this Court grants Compass Bank’s motion. The Court notes Chapter 11 of the Texas Civil Practice and Remedies Code governs suits brought by vexatious litigants and specifies that a court may, on defendant's motion or *sua sponte*, designate a party as a vexatious litigant. *See* TEX. CIV. PRAC. & REM. CODE § 11.101. A court may declare a party to be a vexatious litigant if there is not a 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. Specifically, during the seven year period immediately preceding the date the defendant files its motion to declare the plaintiff a vexatious litigant, the plaintiff has "commenced, prosecuted, or maintained at least five litigations as a pro se litigant" that have been "finally

determined adversely to the plaintiff” or have been “determined by a trial or appellate court to be frivolous or groundless under state or federal law or rules of procedure.” *See Id.* It is also true that a court may find a plaintiff to be a vexatious litigant if the party has previously been declared to be a vexatious litigant by state or federal in an action or proceeding based on the same or substantially similar facts, transaction, or occurrence. However, such a factor is not a necessary criteria for a court to make such a determination. *See Id.* In this case, the Court notes that other Harris County District Courts have ruled as follows:

1. In *Yazdchi v. Jones* (11th District Court, tc# 2015-05013), the trial court entered an order for partial summary judgment on April 9, 2015, entered an order declaring Yazdchi a vexatious litigant on April 28, 2015, and entered an order dismissing the case on May 1, 2015, and administratively closed its file. Yazdchi filed a motion for new trial and Yazdchi did file a notice of appeal pro se.
2. In *Yazdchi v. Wells Fargo Bank, N.A.* (215th District Court, tc# 2015-11585), the trial court entered an order ruling that Yazdchi is a vexatious litigant signed July 10, 2015.

The Court also FINDS the following facts:

- (b) On November 17, 2010, Mr. Yazdchi was convicted of aggregate theft of over \$20,000 and under \$100,000, and with falsely holding himself out to be a lawyer. He appealed. The Court of Appeals and the Court of Criminal Appeals affirmed. *See: Yazdchi v. State*, 2012 WL 5381211 (Tex. App. – 1st Dist. [Houston]; *Yazdchi v. State*, 428 S.W.2d 831 (Tex. Crim. App 2014). The U.S. Supreme Court denied his petition for writ of certiorari on January 20, 2015, and denied his motion for rehearing on April 6, 2015. *See: Yazdchi v. Texas*, 135 S. Ct. 1158.
- (c) In *Yazdchi v. Cornelius*, the First Court of Appeal listed Mr. Yazdchi's unsuccessful appeals as of 2009:

We note that, in each of the following appeals brought by Ali Yazdchi, the trial courts' judgments have been affirmed or the appeals brought by Ali Yazdchi have been dismissed. *Yazdchi v. Nexcess Motorcars*, No. 01-07-00185-CV, 2007 WL 1844901 (Tex. App.-Houston [1st Dist.] June 28, 2007, no pet.) (mem. op.); *Yazdchi v. Allstate Ins. Co.*, No. 01-05-00327-CV, 2007 WL 1152983 (Tex. App.-Houston [1st Dist.] Apr. 19, 2007, no pet.) (mem. op.); *Yazdchi v. Am. Honda Fin. Corp.*, No. 05-10479, 2007 WL 464705 (5th Cir. Feb. 6, 2007); *Auto v. Travelers Ins. Co.*, No. 01-05-00327-CV, 2006 WL 2893324 (Tex. App.-Houston [1st Dist.] Oct. 12, 2006, no pet.) (mem. op.); *Yazdchi v. S. County Mut. Ins. Co.*, No. 11-06-00166-CV, 2006 WL 2253940 (Tex. App.-Eastland Aug. 3, 2006, no pet.) (mem. op.); *Yazdchi v. Am. Nat'l Prop, and Cas. Co.*, No. 01-05-00750-CV, 2005 WL 3454142

(Tex. App.-Houston [1st Dist.] Dec. 15, 2005, no pet.) (mem. op.); *Yazdchi v. Citicorp Credit Serv., Inc.*, No. 01-05-00740-CV, 2005 WL 2989699 (Tex. App.-Houston [1st Dist.] Nov. 3, 2005, no pet.) (mem. op.); *Yazdchi v. State*, No. 14I-04-00500-CV, 2005 WL 2149416 (Tex. App.-Houston [14th Dist.] Sept. 8, 2005, no pet.) (mem. op.); *Yazdchi v. Am. Arb. Ass'n*, No. 01-04-00149-CV, 2005 WL 375288 (Tex. App.-Houston [1st Dist.] Feb. 17, 2005, no pet.) (mem. op.); *Yazdchi v. Bennett Law Firm, P.C.*, No. 14-01-00928-CV, 2002 WL 1163568 (Tex. App.-Houston [14th Dist.] May 30, 2002, no pet.) (not designated for publication); *Bouja v. State*, No. 14-00-00072-CV, 2000 WL 674850 (Tex. App.-Houston [14th Dist.] May 25, 2000, no pet.) (not designated for publication); *Yazdchi v. City of Houston*, No. 14-98-01296-CV, 1999 WL 219381 (Tex. App.-Houston [14th Dist.] Apr. 15, 1999, no pet.) (not designated for publication).

Yazdchi v. Cornelius, No. 01-07-00844-CV, 2009 WL 214547, n.1 (Tex. App. - Houston [1st Dist.] Jan. 29, 2009, (pet. denied) (mem. op., not designated for publication).

- (d) The record further indicates that Mr. Yazdchi has unsuccessfully engaged in the following unsuccessful litigation since 2008:
1. *Yazdchi v. Gage* (151st District Court, tc# 2010-50511). The trial court entered an order dismissing all of Mr. Yazdchi's claims against the defendant on June 29, 2012.
 2. *Yazdchi v. Walker*, (295th District Court, tc# 2008-07115A). The trial court dismissed the case for want of prosecution on February 15, 2010.
 3. *Yazdchi v. Wang*, (County Civil Court at Law No. 3, Harris County Texas, tc# 951408). Trial court issued a summary judgment disposing of all claims on April 22, 2010.
 4. *Yazdchi v. Wang*, 14-10-00572-CV, 2011 WL 61859 (Tex.-App. - Houston [1st Dist.] (January 6, 2011 no pet.). The appellate court dismissed the appeal.
 5. *Yazdchi v. Unauthorized Practice of Law Committee*, 01-09-00065-CV, 2010 WL 2650563 (Tex. App. - Houston [1st Dist.] (July 2010). The appellate court affirmed the trial court's judgment in trial court's cause number 1999-57020 against Mr. Yazdchi.
 6. *See Yazdchi v. Cornelius*, No. 01-07-00844-CV, 2009 WL 214547, n.1 (Tex. App.-Houston [1st Dist.] Jan. 29, 2009, (pet. denied) (mem. op., not designated for publication).

It is evident from the record and the pleadings that during the seven year period immediately preceding the date the defendant filed its motion to declare the plaintiff a vexatious

litigant, Yazdchi “commenced, prosecuted, or maintained at least five litigations as a pro se litigant” that have been “finally determined adversely to the plaintiff” or have been determined “by a trial or appellate court to be frivolous or groundless under state or federal law or rules of procedure.” TEX. CIV. PRAC. & REM. CODE § 11.054. Despite Mr. Yazdchi's arguments to the contrary, the cases noted above were prosecuted or maintained in courts other than small claims court and may be considered when determining whether a pro se plaintiff meets the criteria for a being declared a vexatious litigant. It is irrelevant that the cases were originally filed in a justice court or a small claims court. *See Id.*

The Court also finds that there is no reasonable probability that Yazdchi will prevail for all the reasons stated in Compass Bank’s Motion for Summary Judgment as the Court recently granted said motion.

The Court also finds:

- (1) There is not a reasonable probability that Mr. Yazdchi will prevail in the current litigation. *In fact, the Court has already granted summary judgment against Ali Yazdchi in this lawsuit.*
- (2) Yazdchi has a history of filing or repeatedly re-litigating unsuccessful or frivolous suits.
- (3) During the past seven year period Yazdchi has "commenced, prosecuted, or maintained at least five litigations as a pro se litigant" that have been "finally determined adversely to plaintiff [Yazdchi]."
- (4) Yazdchi meets the criteria for finding a plaintiff a vexatious litigant. ******

Accordingly, the Court GRANTS Compass Bank’s motion to declare Ali Yazdchi a vexatious litigant.

The Court ORDERS that Ali Yazdchi is prohibited from filing new litigation in a state court without first obtaining permission from the appropriate local administrative judge. *See* TEX. CIV. PRAC. & REM. CODE §11.101. Such permission shall be granted only if the litigation

In addition, the Court notes that Mr. Ali Yazdchi has been found to be a vexatious litigant recently in Ali Yazdchi v. Wells Fargo Bank, N.A., 2015-11585, In the 215th District Court of Harris County, Texas, and in Ali Yazdchi v. Mike Jones and Sam Adamo, 2015-05013, in the 11th District Court of Harris County, Texas.

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.

The Court also admonishes Ali Yazdchi that if he fails to obey this order, he may be found in contempt and subject to punishment.

The Court ORDERS the Harris County District Clerk to refuse the filing of any new litigation by Ali Yazdchi unless he first obtains written permission from the appropriate local administrative judge.

The Court further ORDERS the Harris County District Clerk to forward a copy of this Order to the Office of Court Administration. *See* TEX. CIV. PRAC. & REM. CODE §11.104(a).

SIGNED _____, 2015.

Signed: 
7/15/2015

HONORABLE JUDGE PRESIDING

APPROVED AS TO FORM:

HIRSCH & WESTHEIMER, P.C.

By: /s/ William P. Huttenbach

William P. Huttenbach
State Bar No. 24002330
1415 Louisiana, 36th Floor
Houston, Texas 77002
Telephone: (713) 223-5181
Facsimile: (713) 223-9319

**ATTORNEYS FOR DEFENDANT,
COMPASS BANK D/B/A BBVA COMPASS,
IMPROPERLY NAMED AS
BBVA COMPASS BANK**



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 July 15, 2015

Certified Document Number: 66229211 Total Pages: 5

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com