

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

JASON LEE VAN DYKE	§	
Plaintiff	§	
	§	
v.	§	Case No. 4:18cv247
	§	
THOMAS CHRISTOPHER RETZLAFF	§	
a/k/a Dean Anderson d/b/a BV Files, Via	§	
View Files L.L.C., and ViaView Files	§	
Defendant	§	

PLAINTIFF'S MOTION FOR COURT-ORDERED DISMISSAL

Plaintiff, Jason Lee Van Dyke, files this motion to dismiss under Rule 41(a)(2) of the Federal Rules of Civil Procedure.

I. FACTS

1. Plaintiff is Jason Lee Van Dyke. Defendant is Thomas Christopher Retzlaff.
2. This case was removed to this Court from the 431st District Court in and for Denton County, Texas on April 10, 2018. On the same day, Defendant timely filed a *pro se* motion to dismiss this proceeding pursuant to the Texas Citizens Participation Act ("TCPA"). ECF 5. Defendant subsequently retained counsel in this case and timely filed an amended motion to dismiss under the TCPA on May 22, 2018. ECF 44.
3. This Court denied Defendant's motion to dismiss under the TCPA on July 24, 2018. By agreement of the parties, this Court stayed all further proceedings in this case on July 31, 2018. This Court's denial of Defendant's motion to dismiss under the TCPA is currently pending before the 5th Circuit Court of Appeals.
4. This lawsuit ultimately boils down to only one issue: whether Defendant has a constitutional right to tortiously interfere with Plaintiff's law practice and engage in the non-stop harassment of Plaintiff. During the pendency of this lawsuit, Defendant has

committed countless unlawful acts against Plaintiff and members of Plaintiff's family.

Plaintiff has made multiple reports of these acts to law enforcement, and no action has been taken against Defendant.

II. GROUNDS

6. Plaintiff wishes to dismiss this lawsuit because he is of the opinion that, short of locking Defendant in a prison cell for the rest of his natural life, there is nothing that this or any other court can do that will stop Defendant from continuing to harass Plaintiff. There is no resolution of this case that will stop Defendant's behavior. Defendant has already placed Plaintiff in dire financial straits and, simply put, Plaintiff lacks the time and resources to continue litigating against a lunatic.
7. Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiff hereby notifies this Court that Defendant refuses to stipulate to a dismissal. See Exhibit "A".
8. By this motion, Plaintiff hereby withdraws all motions that he has pending before this Court.
9. Plaintiff has no opinion concerning whether this lawsuit should be dismissed with or without prejudice to refiling. The manner of dismissal is ultimately of little consequence to Plaintiff because he has no desire or intent to continue litigating against Defendant.
10. Defendant has not filed any counterclaims against Plaintiff prior to the filing of this motion to dismiss.
11. Defendant will not be prejudiced by the dismissal of this lawsuit. Throughout this entire case, Defendant's only objective has been to harass Plaintiff as much as humanly

possible, to cripple his finances, to ruin his reputation, and to destroy his law practice.

Defendant has succeeded in that objective.

12. Plaintiff does not desire oral argument on this motion because Plaintiff is of the opinion that oral argument will not assist this Court.

III. PRAYER

13. Plaintiff prays that this Honorable Court enter an order dismissing this above-captioned lawsuit.

Respectfully submitted,

/s/ Jason Lee Van Dyke
Jason L. Van Dyke
State Bar No. 24057426
108 Durango Drive
Crossroads, TX 76227
P – (469) 964-5346
F – (972) 421-1830
Email: jason@vandykelawfirm.com

CERTIFICATE OF CONFERENCE

Plaintiff has made a reasonable attempt to confer with opposing counsel concerning this motion. The response received by Plaintiff is attached hereto as Exhibit "A" and incorporated by reference herein. Accordingly, this motion is presented to the Court for consideration.

/s/ Jason Lee Van Dyke
JASON L. VAN DYKE

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was electronically filed on the CM/ECF System, which will automatically serve a Notice of Electronic Filing on Jeffrey Dorrell, Attorney for Defendant.

/s/ Jason Lee Van Dyke
JASON LEE VAN DYKE

EXHIBIT "A"

Jason Van Dyke

From: Tom Retzlaff <retzlaff@texas.net>
Sent: Monday, December 03, 2018 10:50 AM
To: Jeffrey Dorrell; Jason Van Dyke
Cc: Kristin Brady; Linda Acevedo; jcouncil_alm.com ; 'Sommer, William' ; 'Andy Campbell'; nathanbernard@gmail.com
Subject: Re: Pending Litigation Involving Thomas Retzlaff

My position is this: Van Dyke can go fuck himself. Long and hard. I ain't dismissing shit. If he wants to quit, fine by me. I'm winning, so fuck him.

Like the idiots McGibney and Morgan and Klein before him, once you put my name on your stupid legal papers - and especially when you make credible threats to murder me and my family - there is no walking away from that.

Besides, a lot of people, very important people, very influential people, are counting on me to win this case in the Fifth Circuit. Why else did all of my dad's media friends come out in support of me so quickly, so publicly, and unequivocally?

Loyalty is important to me.

And, besides, I'm winning and Van Dyke has absolutely nothing to offer me. If he wants to quit, fine by me. It makes sense as there is no upside for him no matter how these cases play out.

He will be in jail soon enough regardless, along with his co-conspirators in trying to get me and my family SWATted.

Tom Retzlaff

From: JDorrell@hanszenlaporte.com
Sent: December 3, 2018 9:31 AM
To: jason@vandykelawfirm.com
Cc: JDevlin@hanszenlaporte.com; ALaporte@hanszenlaporte.com; cwilson@hanszenlaporte.com
Subject: Re: Pending Litigation Involving Thomas Retzlaff

Dear Mr. Van Dyke:

I completely understand. I will relay your proposal to our client.

As you know, Mr. Retzlaff has previously indicated he did not want to dismiss his anti-SLAPP motions in either the Texas or Arizona case, pursuant to which (if successful) he would be entitled to recover attorney's fees and mandatory sanctions from you. However, I will advise if there has been any change in our client's position.

Respectfully,

Jeff



Jeffrey L. Dorrell

Board Certified—Civil Trial Law
Texas Board of Legal Specialization
Equity Partner

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On Dec 3, 2018, at 10:18 AM, Jason Van Dyke <jason@vandykelawfirm.com> wrote:

Dear Mr. Dorrell:

I am willing to stipulate to dismissal of all pending litigation provided that the stipulations of dismissal finally dispose of all parties and all claims, including counterclaims, and that such stipulations clearly waive any further proceedings in those cases (including Anti-SLAPP motions). However, you may not file those on my behalf. I reserve the right to review them.

If this is acceptable, I will agree to waive briefing in the 5th Circuit case because the issue is moot based upon what I will agree to above.

I will not resign from the State Bar of Texas, but I will pursue no further hostilities against your client in that case. You already know that the entire process is rigged and that the attorneys for the Commission for Lawyer Discipline are acting in concert with your client. However, when the inevitable happens, I want may day in court with BODA and ultimately the Supreme Court of Texas.

<image001.jpg>

From: Jeffrey Dorrell [<mailto:JDorrell@hanszenlaporte.com>]
Sent: Monday, December 03, 2018 8:36 AM
To: Jason Van Dyke <jason@vandykelawfirm.com>
Cc: Kristin Brady <kristin.brady@texasbar.com>; Julie Devlin <JDevlin@hanszenlaporte.com>; Anthony Laporte <ALaporte@hanszenlaporte.com>; Carl Wilson <cwilson@hanszenlaporte.com>
Subject: Pending Litigation Involving Thomas Retzlaff

Counsel:

I join your desire for a cessation of hostilities. Please advise if I have your permission to sign on your behalf and file stipulations of dismissal and requests to withdraw all of your pending motions in the following litigation:

(i)

No. 4:18-CV-00247-ALM; *Van Dyke v. Retzlaff*; in the U.S. District Court for the Eastern District of Texas; and

(ii)

No. 2:18-CV-04003-JJT; *Van Dyke v. Retzlaff*; in the U.S. District Court for the District of Arizona.

Also, please kindly advise if I have your permission to sign on your behalf and file appellee's waiver of briefing in No. 18-40710; *Van Dyke v. Retzlaff*; in the U.S. Court of Appeals for the Fifth Circuit. Finally, please advise if you intend to resign as a member of the State Bar of Texas in lieu of continuing to defend the disbarment proceedings against you.

We look forward to your response.

Respectfully,

Jeff

<image002.png>

Jeffrey L. Dorrell

Board Certified—Civil Trial Law
Texas Board of Legal Specialization
Equity Partner

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JASON LEE VAN DYKE

Plaintiff

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THOMAS CHRISTOPHER RETZLAFF
a/k/a Dean Anderson d/b/a BV Files, Via
View Files L.L.C., and ViaView Files

Defendant

§

§

ORDER ON PLAINTIFF'S MOTION TO DISMISS

After considering Plaintiff's Motion for Court Ordered Dismissal, this Court finds that cause exists for the dismissal of the above-captioned case. Accordingly, the Court makes the following orders:

- (1) Plaintiff's Motion for Court-Ordered Dismissal is GRANTED and this case is dismissed with prejudice;
- (2) Plaintiff's Motion for Preliminary Injunction (ECF 46) is DENIED AS MOOT; and
- (3) Plaintiff's Motion for Clarifying Order (ECF 82) is DENIED AS MOOT.