

REFERENCE

LR CIV 5.4

(Rule Number/Section)

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DEC 10 2018	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY <u>[Signature]</u>	DEPUTY

Jason Lee Van Dyke
 108 Durango Drive
 Crossroads, TX 76227
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 F - (972) 421-1830
 E - jason@vandykelawfirm.com

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ARIZONA
 PHOENIX DIVISION

JASON LEE VAN DYKE
 Plaintiff,

v.

THOMAS CHRISTOPHER RETZLAFF
 Defendant.

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Case No. CV-18-4003-PHX-JJT

PLAINTIFF'S MOTION FOR COURT-ORDERED DISMISSAL

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

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I. INTRODUCTION

1. Plaintiff is Jason Lee Van Dyke. Defendant is Thomas Christopher Retzlaff.
2. On or around November 8, 2018, Plaintiff sued Defendant in the Superior Court in and for Maricopa County, Arizona for an injunction against harassment.
3. On information and belief, Defendant received notice of the suit on or around November 8, 2018.
4. Defendant filed his notice of removal on November 8, 2018.
5. Since that time, Defendant has done nothing but continue to harass Plaintiff and has made multiple filings in this Court which seek only to harass Plaintiff.

Although Plaintiff has made multiple reports to law enforcement concerning Defendant, no action has been taken.

II. GROUNDS

6. Plaintiff wishes to dismiss this case because he has come to be of the opinion that there is nothing that this or any other court can do, short of locking Defendant away in prison for the rest of his natural life, that will stop Defendant from continuing to harass him. Plaintiff does not desire to continue wasting his time, or this Court's time, participating in litigation against a lunatic. Defendant has already placed Plaintiff in dire financial straits and Plaintiff lacks the resources to continue litigating this case.
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 the dismissal.
8. Plaintiff has no opinion as to whether this lawsuit should be dismissed with prejudice or without prejudice to refiling. Plaintiff does not care either way because he has no desire or intent to continue litigating against Defendant.
9. Defendant has filed a groundless counterclaim in this cause of action for intentional infliction of emotional distress. Plaintiff has already filed a motion to dismiss that counterclaim under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Plaintiff asks that this Court dismiss Defendant's counterclaim under Rule 12(b)(6) and then dismiss the remainder of the lawsuit as requested in this motion. Plaintiff also asks this Court to deny Defendant's motion to dismiss under

the Texas Citizens Participation Act and to grant this motion instead.

10. Defendant will not suffer prejudice due to the dismissal of this lawsuit.
11. Plaintiff does not desire oral argument. Oral argument will not assist this Court in determining this motion.

III. PRAYER

12. Plaintiff asks that this Honorable Court enter an order dismissing this lawsuit.

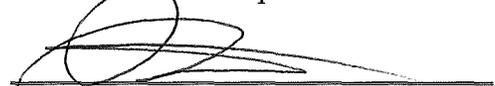
Respectfully submitted,



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CERTIFICATE OF CONFERENCE

Plaintiff has attempted to confer with Defendant concerning this motion. Defendant provided to Plaintiff the response attached hereto as Exhibit "A" and incorporated by reference herein. Based upon Defendant's response this motion is presented to the Court for consideration.



JASON L. VAN DYKE

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served on Thomas Christopher Retzlaff, Defendant, at PO Box 46424, Phoenix, AZ 85063 by First Class U.S. Mail on December 3, 2018



JASON L. 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'; nathantbernard@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

HANSZEN ♦ LAPORTE
ATTORNEYS AT LAW

Jeffrey L. Dorrell

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

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p: 713-522-9444 f: 713-524-2580
14201 Memorial Drive, Houston, Texas 77079

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 my 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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