

CAUSE NO. 23-07-09759

**MATTHEW L WEBB** § **IN THE DISTRICT COURT OF**  
**vs.** § **MONTGOMERY COUNTY,**  
**TEXAS**  
**WALMART STORES TEXAS** § **284<sup>TH</sup> JUDICIAL DISTRICT**  
**LLC; WALMART, INC.**

**ORDER DECLARING MATTHEW WEBB TO BE A VEXATIOUS  
LITIGANT, DISMISSING CASE, AND REQUIRING PREFILING  
ORDERS**

On this day, DEFENDANT WALMART STORES, TEXAS, LLC'S MOTION TO DISMISS PLAINTIFF'S RULE 202 PETITION AND DESIGNATE PLAINTIFF MATTHEW L. WEBB A VEXATIOUS LITIGANT ("Motion") was submitted to the Court for a ruling. The Court notes that the Court had an oral hearing scheduled on September 22, 2023 on another matter, and had an oral hearing on this Motion scheduled for September 29, 2023, but at the September 22<sup>nd</sup> hearing, the parties agreed to submit this matter to the Court on its submission docket due, in large part, to the level of stress and agitation which Mr. Webb displayed in the courtroom. All parties – and, point in fact, Mr. Webb's mother who was present in the courtroom – agreed that a

submission docket was the better approach for a ruling on this Motion given the negative reaction Mr. Webb had with being in the courthouse (where he sits facing the wall, wearing gloves and sunglasses, “unable” to look at screens, reading all arguments he makes to the Court at rapid speed, walking backwards to turn in his exhibits, weeping, becoming agitated, etc.). With the agreement of the parties made in open court and on the record on September 22, 2023, this Court now considers this Motion by submission.

Based upon the evidence presented, coupled with the Court’s review of its own files and other public records, the Court notes that Matthew L. Webb has repeatedly sued on a single claim – his alleged allergic reaction to Etolodac (an anti-inflammatory medication) and perhaps others. Despite his tens of thousands of pages of filings in 5 years, often filed in rapid succession (such as the 11 filings totaling 132 pages filed in 41 minutes on September 26, 2023), his complaint remains unclear. Whatever it is – and whoever might have caused it among the *sixty-eight* defendants he has sued in the last 5 years, he caused him, he says, a loss of his vision, including an inability to look at screen (among other things). All of those pleadings and it is still hard

to tell what is the center of his complaint – the Beaumont Court of Appeals kindly characterized his pleadings as “not the model of clarity”. In addition to those pleadings, he, apparently, emails in the same manner:

From September 2019 to August 17, 2023, Walmart, and specifically Walmart’s defense counsel at Bush & Ramirez, LLP has received 1,085 emails from Webb’s Progammmercis@gmail.com email account, most of them unsolicited. See generally EX. J. The content of the emails are as equally confusing as his pleadings. Walmart has continued to receive several emails a day from Webb as of the date of this filing.

18. Webb’s emails contain a threatening tone that is highly inappropriate in any context but particularly a litigation context. Specifically, on November 19, 2022, counselor John Ramirez received an unprovoked email from Webb calling him a “stupid bitch mother fucker”. EX. I. The email contains no other attachments or information and was not in response to any communication originated by Bush & Ramirez.

*See* Motion at 9-10. Given pending litigation, Bush & Ramirez is not in a position to blacklist Mr. Webb’s email address in order to prevent their receipt of the tens of thousands of emails their exhibit shows they have received from Mr. Webb. That is true even though his emails do little to advance the case but do much more to upset counsel.

Walmart asks this Court to declare Mr. Webb to be a vexatious litigant:

A court may find a plaintiff a vexatious litigant if the defendant shows that there is not a reasonable probability that the plaintiff will prevail in the litigation against the defendant and that:

- (1) the plaintiff, in the seven-year period immediately preceding the date the defendant makes the motion under Section 11.051, has commenced, prosecuted, or maintained at least five litigations as a pro se litigant other than in a small claims court that have been:
  - (A) finally determined adversely to the plaintiff...
- (2) after a litigation has been finally determined against the plaintiff, the plaintiff repeatedly relitigates or attempts to relitigate, pro se...
  - (B) the cause of action, claim, controversy, or any of the issues of fact or law determined or concluded by the final determination against the same defendant as to whom the litigation was finally determined...

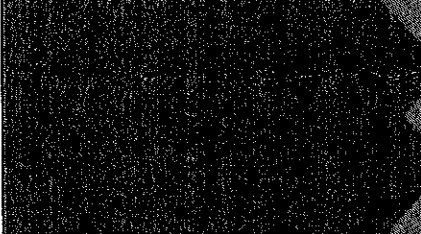
TEX. CIV. PRAC. & REM. CODE §11.054. It is no exaggeration to say that both of these independent bases listed above exist with Mr. Webb's persistent litigation.

**(1)(A) Losses of 5 in 7:**

“Litigation” is defined as “a civil action commenced, maintained, or pending in any state or federal court.” TEX. CIV. PRAC. & REM. CODE

§11.001(2). The Motion was filed August 30, 2023, so the seven years previous to the Motion include August 29, 2016 - August 29, 2023. In that time, Mr. Webb has filed the following:

<b>Date</b>	<b>Cause</b>	<b>Nature of Matter</b>	<b>Details</b>	<b>Outcome</b>
4/2/19	19-04-04688 <i>Matthew L. Webb v. Austin Aphay, HEB Staff</i> 284 <sup>th</sup> District Court	Allergic reaction during eye exam – this is where it begins	In just shy of 4 months while the case was pending, there were 362 filings, totaling 14,097 pages.	Dismissed 7/29/19
5/3/19	09-19-2213- CV Beaumont Court of Appeals	Appeal of 19-04-04688		Dismissed on Mr. Webb's request on 1/24/20
9/13/19	19-09-12616 <i>Matthew Webb v. Walmart, Inc., Riz Eye Care</i> 284 <sup>th</sup> District Court	Rule 202 Petition to Walmart alleging a Deceptive Trade Practices (“DTPA”) Claim	In just over 2 months while the case was pending, there were 135 pleadings filed, totaling 4,041 pages. – Only 80 of those pages and 7 of those filings were not Mr. Webb's.	Petition denied on 11/17/19

Date	Cause	Nature of Matter	Details	Outcome
9/25/19	19-09-12884 <i>Matthew Webb v. Eye Excellence, JII Proeprty Managemen t Co., HEB LP</i> 410 <sup>th</sup> District Court	Rule 202 Petition to Mann Eye Institute alleging a DTPA Claim *This case is not against Walmart specifically but shows the pattern of abusive behavior displayed by Webb regarding the same set of facts and circumstances.	In just shy of 2 months while the case was pending, there were 108 pleadings filed, totaling 3,300 pages. - Only 198 of those pages and 14 of those filings were not Mr. Webb's.	Petition denied on 11/22/19, with notin the Final Order that, "The Court will consider any future Motions if subsequent suits are filed int his Court under the criteria set forth in Tex. Civ. Prac. & Rem. Code 11.054."
9/18/20	20-09-11360 <i>Matthew L. Webb v. Walmart Stores Texas, LLC</i> 284 <sup>th</sup> District Court	Plaintiff's First Amended Petition alleging a DTPA Claim.	While the case and 2 appeals stemming from it were pending, there were 198 pleadings filed, totaling 2,879 pages.	Granted Rule 91a Motion to dismiss on 12/13/20
7/14/22	09-21-00011 -CV Beaumont Court of Appeals	Appeal of 20-09-11360		Affirmed dismissal of Cause 20-09-11360 on 7/14/22

Date	Cause	Nature of Matter	Details	Outcome
9/8/22	22-0778 Texas Supreme Court	Appeal of 20-09-11360		Petition for Review denied 11/18/22
7/8/23	23-07-09759 284 <sup>th</sup> District Court	Rule 202 Petition alleging a Chapter 74 Health Care Liability Claim against Walmart	In just shy of 3 months while the case was pending, there were 130 pleadings filed, totaling 1,860 pages. – Only 307 of those pages and 15 of those filings were not Mr. Webb's.	Dismissal granted 9/29/23 with this Order

The total is 8 litigations, all of which were finally determined adversely to Mr. Webb.

**(2)(B) Same Song, Second Verse:**

Mr. Webb has repeatedly attempted to relitigate this same claim – an alleged allergic reaction to his eyes in 2017 caused by [insert name of defendant here]. In total, Mr. Webb has, in 5 lawsuits, sued **68 defendants – one of whom was his mother.** He has sued some variation of HEB twice and Walmart three times, but each of these cases is an allegation about the same set of events.

## **Two Other Points:**

**The Appeal Is Final:** Mr. Webb's claims about events that occurred in 2017 is barred by limitations, as the Beaumont Court of Appeals has already opined in Case 09-21-00011-CV:

...Webb's causes of actions pleaded, together with exhibits attached by Webb to his pleadings, are barred by a two-year statute of limitations, and because the record reflects that application of the discovery rule could not establish an exception to the statute of limitations...

That being true of that case filed 9/18/20, it is even more so as to the same case filed 7/8/23. The determination that the claim is barred takes limitations outside of the realm of an affirmative defense which could be waived and into the realm of this issue has already been finally decided against Mr. Webb, but still he persists.

**Nothing To See Here:** In order to comply with the medical malpractice prerequisite requirements, Mr. Webb files his expert report with his voluminous pleadings in every case. It is an interesting read. Mr. Webb hired an online expert service to review his medical records for a fee of \$4,000.00, and the doctor who looked at all of Mr. Webb's medical records to evaluate whether he had a claim regarding his



allergic reaction to Etolodac (his medication about which these lawsuits all hinge) says this:

- **“Many of the questions and issues raised make no sense to me and are not evidence based.”**
- **“[I]n this case, the patient [Mr. Webb] did seek medial attention for various complaints, none of which were related to the drugs interactions, and his blood pressure was only mildly elevated and **caused him no injury.**”**
- **“Therefore, even though there was a mild effect on his blood pressure, **it did not cause any injury.**”**
- **“In a medical malpractice case you have to have deviations from the accepted standards of care, and none occurred in this case.”**
- **“Furthermore, in a medical malpractice case you have to have damages caused by any such deviation from the standard of care, and there were no significant damages.”**
- ***“The complaints I have read are not truly substantiated by the facts.”***

### **Public Policy Dictates Finding Mr. Webb A Vexatious Litigant:**

The problem Mr. Webb creates for the judicial system cannot be overstated:

Flagrant abuse of the judicial process cannot be tolerated because it enables one person to preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants.

*De Long v. Hennessey*, 912 F.2d 1144, 1148 (9<sup>th</sup> Cir. 1990). Because vexatious litigation clogs the court system and diminishes the efficient administration of justice, “courts can regulate the activities of abusive litigants,” including “enjoining litigants with abusive and lengthy litigation histories”. *RinggoldLockhart v. County of L.A.*, 761 F.3d 1057, 1061 (9<sup>th</sup> Cir. 2014) (citations omitted). In that vein, Texas recognizes both the value and constitutionality of the vexatious litigant statute:

The purpose of the statute is to make it possible for courts to control their dockets rather than permitting courts to be burdened with repeated filings of frivolous and malicious litigation by litigants without hope of success while, at the same time, providing protections for litigants' constitutional rights to open courts when they have genuine claims that can survive the scrutiny of the administrative judge and the posting of security to protect defendants. *In re Potts*, 357 S.W.3d 766, 768 (Tex. App. – Houston [14<sup>th</sup> Dist.] 2011, orig. proceeding)....

This court and three sister courts of appeals have concluded that the vexatious litigant statute does not violate the vexatious litigant's constitutional due process rights. *See Potts*, 357 S.W.3d at 769; *Johnson v. Sloan*, 320 S.W.3d 388, 389-90 (Tex. App. – El Paso 2010, pet. denied); *Clifton v. Walters*, 308 S.W.3d 94, 101-02 (Tex. App. – Fort Worth 2010, pet. denied); *In re Johnson*, No. 07-07-0245-CV, 2008 WL 2681314, at \*2 (Tex. App. – Amarillo Jul. 9, 2008, orig. proceeding) (mem. op.). Relator has not shown that the restrictions in the vexatious litigant statute are

unreasonable or arbitrary when balanced against the purpose and basis of the statute. The statute does not authorize courts to act arbitrarily, but permits them to restrict a plaintiff's access to the courts only after first making specific findings that the plaintiff is a vexatious litigant based on factors that are closely tied to the likelihood that the litigation is frivolous. See *Potts*, 357 S.W.3d at 769; Tex. Civ. Prac. & Rem. Code Ann. § 11.054.

Although relator was found to be a vexatious litigant, chapter 11 and the trial court's order do not categorically bar her from prosecuting a lawsuit, but require her to seek permission from the local administrative judge before filing. See Tex. Civ. Prac. & Rem. Code Ann. § 11.102. Therefore, relator has not been deprived of her access to appellate courts or her ability to seek a meaningful appeal.

*In re Potts*, 399 S.W.3d 685, 687-88 (Tex. App. – Houston [14<sup>th</sup> Dist.] 2013, orig. proceeding). Likewise, repeated filings of the same case in the manner of Groundhog's Day is something the statute seeks to prevent:

On the contrary, preventing such repeated filings is the core purpose behind chapter 11. See *In re Potts*, 399 S.W.3d 685, 687 (Tex. App.—Houston [14<sup>th</sup> Dist.] 2013, orig. proceeding) (“The purpose of [chapter 11] is to make it possible for courts to control their dockets rather than permitting courts to be burdened with repeated filings of frivolous and malicious litigation by litigants without hope of success while, at the same time, providing protections for litigants' constitutional rights to open courts when they have genuine claims[.]”).

*Leonard v. Paxton*, No. 03-19-00771-CV, 2020 WL 1814614, at \*2 (Tex. App. – Austin Apr. 10, 2020, no pet.) (mem. op.).

Mr. Webb has filed the same basic lawsuit over and over and over again. While there was a break for the District Courts from 2020-2022, the appellate courts cannot say the same. A screen shot of Mr. Webb's Texas Supreme Court's case shows to the contrary:

CASE EVENTS				
Date	Event Type	Disposition	Remarks	Document
01/04/2023	Notice sent to Court of Appeals			[ PDF/141 KB ] Notice
11/18/2022	Petition for Review disposed	Denied		[ PDF/35 KB ] Notice
11/02/2022	Call received		Call received from Petitioner to ask about envelope numbers.	
10/21/2022	Call received		Call from Petitioner regarding notices.	
10/18/2022	Call received		Call from Petitioner regarding change of address and compliance with Tex. R. App. P. 9.1(a)(b).	
10/13/2022	Call received		Call from Petitioner regarding proper service of petition for review.	
10/13/2022	Call received		Call received from Petitioner.	
10/13/2022	Notice from Counsel of a change in address		Amended Change of Address filed on behalf of Matthew L. Webb.	[ PDF/107 KB ]
10/12/2022	Notice from Counsel of a change in address		Notice of Change of Address filed on behalf of Matthew L. Webb.	[ PDF/38 KB ]
10/12/2022	Call received		Call received from Petitioner regarding rules and procedures.	
10/12/2022	Call received		Call received from Petitioner regarding the rules.	
10/11/2022	Case forwarded to Court			
10/11/2022	Call received		Call received from Petitioner regarding procedures for change of address.	
09/08/2022	Petition for Review		Petition for Review filed on behalf of Matthew L. Webb.	[ PDF/13.35 MB ] [ PDF/36 KB ] Notice
09/08/2022	Court reporter/recorder's record			
09/08/2022	Clerk's Record			
09/08/2022	Clerk's Record			

Mr. Webb has devoted the last half decade to his quest to litigate an event which happened in 2017 and for which his own expert told him

– and the Courts – there is neither liability nor damages. His relentless pursuit ignores all sense of decorum, but, even more so, ignores the rules of law. This lawsuit is frivolous and his behavior to the opposing side and to the courts is abusive. It ends now. This Court grants the Motion to Dismiss and declares Matthew L. Webb (aka Matthew Webb, aka Matthew Lynn Webb) to be a vexatious litigant, required to obtain administrative judge approval before filing a lawsuit and then posting security to protect the defendant(s) of said lawsuit in the event one is allowed to be filed.

On September 29, 2023, the Court considered Defendants' Motion to Dismiss Plaintiff's Rule 202 Petition and Motion for Order Determining Plaintiff a Vexatious Litigant and Requesting Entry of a Prefiling Order. The Court finds that:

1. There was no reasonable probability that the plaintiff would prevail in *Matthew L. Webb v. Wal-Mart Stores, Texas, LLC*, Case No. 23-07-09759 in the 284<sup>th</sup> Judicial District of Montgomery County, Texas;
2. Prior litigation between Plaintiff and Defendant has been finally determined against plaintiff, significantly in *Matthew L. Webb v.*

*Wal-Mart Stores, Texas, LLC*, Cause No. 20-09-11360 in the 284<sup>th</sup> District Court of Montgomery County, Texas. This final determination was embodied in the following decision by the Court of Appeals Ninth District of Texas at Beaumont No. 09-21-00011-CV. Following an unsuccessful appeal, Plaintiff sought review by the Texas Supreme Court Cause No. 22-0778. The Texas Supreme Court declined to hear the matter; and

3. Plaintiff has repeatedly attempted to relitigate the validity of the determination of the disputes between himself and Defendant, as well as the causes of action, claims, controversies and issues of fact and law determined or concluded between himself and Defendant.

Based on these findings, it is ORDERED, ADJUDGED, and DECLARED that Matthew L. Webb (aka Matthew Webb, aka Matthew Lynn Webb) is a “vexatious litigant” as set forth in Texas Civil Practice and Remedies Code Chapter 11.

It is further ORDERED that Matthew L. Webb (aka Matthew Webb, aka Matthew Lynn Webb) is **prohibited** from filing any new litigation in any court in this state, including any appeal of this Order,

without first obtaining permission of the appropriate local administrative judge, as provided by Texas Civil Practice and Remedies Code Section 11.102.

It is further ORDERED that upon Matthew L. Webb (aka Matthew Webb, aka Matthew Lynn Webb) requesting any such permission, Matthew L. Webb (aka Matthew Webb, aka Matthew Lynn Webb) is ordered to provide a copy of the request to all Defendants named in the proposed litigation.

It is further ORDERED that the clerk of this court shall provide a copy of this order to the Office of Court Administration of the Texas Judicial System within 30 days of its signing, pursuant to Texas Civil Practice and Remedies Code Section 11.104(b).

It is further ORDERED that the Office of Court Administration shall identify Matthew L. Webb (aka Matthew Webb, aka Matthew Lynn Webb) as a vexatious litigant on its website pursuant to Texas Civil Practice and Remedies Code Section 11.104(c).

It is further ORDERED that Matthew L. Webb's Rule 202 Petition bearing Cause No. 23-07-09759 **BE DISMISSED WITH PREJUDICE.**

Any other relief requested is DENIED.

This Order is final as to all claims and parties.

Signed 9/29/2023 6:04:15 PM



KRISTIN BAYS  
Presiding Judge - 284<sup>th</sup> District  
Court





# Montgomery County District Clerk

Melisa Miller

936-539-7855

PO Box 2985 Conroe TX 77305

districtclerk@mctx.org

October 04, 2023

Office of Court Administration  
301 North Main  
Room 304  
Conroe TX 77301

23-07-09759

Matthew L Webb vs. Walmart, Inc.

Please be advised that on September 29, 2023, the enclosed Order Declaring Matthew Webb to be a Vexatious Litigant, Dismissing Case, and Requiring Prefiling Orders was signed by the Honorable Kristin Bays, Judge of the 284th Judicial District Court of Montgomery County, Texas.

Melisa Miller, District Clerk

Montgomery County, Texas

By: Chris Russo

10/4/2023 10:53:50 AM

Chris Russo, Deputy

