

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

NO. 01-10502

JERRY MICHAEL COLLINS

Plaintiff-Appellant

V.

RICHARD LAWRENCE, ET AL
Defendants

LOUIS B. GOHMERT, JR.
Defendant – Appellee

RECORD EXCERPTS

Appeal from the United States District Court
For the Northern District of Texas
Dallas Division, Action 3:99-cv-00641

JERRY MICHAEL COLLINS, PRO SE
10101 Hwy. 31 – East
Murchison, Texas 75778

RECORD EXCERPTS

CONTENTS

1.	DOCKET SHEET.....	Excerpt 1
2.	NOTICE OF APPEAL (DR-118).....	Excerpt 2
3.	ORDER - (DR-95).....	Excerpt 3
4.	FINAL JUDGMENT - (DR-96).....	Excerpt 4
5.	ORDER - (DR-99).....	Excerpt 5
6.	ORDER - (DR-103).....	Excerpt 6
7.	ORDER - DR-108).....	Excerpt 7
8.	ORDER - (DR-117).....	Excerpt 8
9.	MOTION TO DISMISS under Rule 12(b)(6), MOTION TO ABATE DISCOVERY, and in the alternative, ORIGINAL ANSWER OF JUDGE LOUIS B. GOHMERT, JR. (DR-31) ...	Excerpt 9
10.	MOTION FOR SANCTION UNDER RULE 11(b) (DR-32)...	Excerpt 10
11.	SUPPLEMENTAL MOTION TO DISMISS AND FOR SANCTIONS UNDER RULE 11(b) (DR-66).....	Excerpt 11
12.	RESPONSE TO PLAINTIFF'S OPPOSITION TO JUDGE GOHMERT'S MOTION FOR SANCTIONS (DR-100)	Excerpt 12
13.	AFFIDAVIT (DR-105).....	Excerpt 13
14.	PLAINTIFF'S THIRD REPLY TO THE JULY 27, 2000 AND SEPTEMBER 8, 2000 ORDERS OF JUDGE SOLIS (DR - 111).....	Excerpt 14
15.	AFFIDAVIT OF G. DAVID WESTFALL (page 212).....	Excerpt 15
16.	NOTICE OF PAYMENT OF SANCTIONS (DR-119).....	Excerpt 16

U.S. District Court
Northern District of Texas (Dallas)

CIVIL DOCKET FOR CASE #: 99-CV-641

Collins v. Lawrence, et al
Assigned to: Judge Jorge A Solis
Demand: \$0,000
Lead Docket: None
Dkt# in other court: None

Filed: 03/24/99
Jury demand: Both
Nature of Suit: 470
Jurisdiction: Federal Question

Cause: 18:1964 Racketeering (RICO) Act

JERRY MICHAEL COLLINS
plaintiff

G David Westfall, Attorney at
Law
[term 07/24/00]
214/741-4746 FAX
[COR LD NTC ret]
Law Office of G David Westfall
5646 Milton
Suite 520
Dallas, TX 75206
USA
214/741-4741

Jerry Michael Collins
[COR LD NTC pse] [PRO SE]
10101 HWY 31 East
Murchison, TX 75778-3427

v.

RICHARD LAWRENCE
defendant

Robert S Davis, Attorney at Law
903/534-1650 FAX
[COR LD NTC ret]
Flowers Davis Fraser Derryberry
& Van Cleef
815 Rice Road
Tyler, TX 75703
USA
903/534-8063

Certified a true copy of an instrument
on file in my office on 5-10-01
Clerk, U.S. District Court,
Northern District of Texas
By [Signature] Deputy

L Charles Van Cleef, Attorney
at Law
870/772-6829 FAX
[COR ret]
Flowers Davis & Van Cleef
210 N State Line Ave
Texarkana, AR 71854

Docket as of May 10, 2001 2:07 pm

Page 1 NON-PUBLIC

RECORD EXCERPT
#1

USA
870/772-9247

JOHN PARRISH
defendant

Robert S Davis, Attorney at Law
(See above)
[COR LD NTC ret]

L Charles Van Cleef, Attorney
at Law
(See above)
[COR ret]

TRUMAN PRICE
defendant

Robert S Davis, Attorney at Law
(See above)
[COR LD NTC ret]

L Charles Van Cleef, Attorney
at Law
(See above)
[COR ret]

ROXIE CLUCK
defendant

Roxie W Cluck, Attorney at Law
903/567-2863 FAX
[COR LD NTC pse]
Law Office of Roxie W Cluck
PO Box 338
Canton, TX 75103-0338
USA
903/567-2136

DORIS SIPES
defendant

Doris Sipes
915/533-4368 FAX
[COR LD NTC pse] [PRO SE]
1011 North Mesa
El Paso, TX 79902
USA
915/544-5236

MALCOLM MCGREGOR
defendant

Malcolm McGregor
915/533-4368 FAX
[COR LD NTC pse] [PRO SE]
1011 N Mesa St
El Paso, TX 79902
USA
915/544-5230

TOMMY W WALLACE
defendant

Daniel E Maeso, Attorney at Law
[term 03/07/00]

[term 03/07/00]	[COR LD NTC ret] Leslie B Vance [term 03/07/00] [COR ret] Attorney General of Texas Capitol Station PO Box 12548 Austin, TX 78711-2548 USA 512/463-2100
JENNA L SCOTT defendant	Jenna L Scott 915/534-7100 FAX [COR LD NTC pse] [PRO SE] 264 Maricopa El Paso, TX 79912 915/534-7100
PATRICIA KIMBLE defendant	Boyd Wray Naylor, Attorney at Law [COR LD ret] unknown
HARRY TOM PETERSEN defendant	Harry Tom Petersen [COR LD NTC pse] [PRO SE] 1011 North Mesa St El Paso, TX 79902 915/544-5235
LESLIE P DIXON defendant [term 03/07/00]	Daniel E Maeso, Attorney at Law [term 03/07/00] (See above) [COR LD NTC ret] Leslie B Vance [term 03/07/00] (See above) [COR ret]
BETTY DAVIS defendant [term 03/07/00]	L Charles Van Cleef, Attorney at Law [term 03/07/00] (See above) [COR LD NTC ret]
RICHARD CURRIN defendant	Richard Currin [COR LD NTC pse] [PRO SE] 580 N 4th St Wills Point, TX 75169

903/873-2889

JAMES B ZIMMERMANN
defendant

Daniel E Maeso, Attorney at Law
(See above)
[COR LD NTC ret]
Leslie B Vance
(See above)
[COR ret]

ROBERT DAVIS
defendant

Daryl L Derryberry, Attorney at
Law
903/509-3263 FAX
[COR LD NTC ret]
Law Office of Daryl L
Derryberry
5070 Kinsey Dr
Tyler, TX 75703
USA
903/509-2268

JOYCE FUGATE
defendant
[term 03/07/00]

Robert S Davis, Attorney at Law
[term 03/07/00]
(See above)
[COR LD NTC ret]

L Charles Van Cleef, Attorney
at Law
[term 03/07/00]
(See above)
[COR ret]

CHARLES VAN CLEEF
defendant

Daryl L Derryberry, Attorney at
Law
(See above)
[COR LD NTC ret]

COYE CONNER, JR
defendant
[term 03/07/00]

David M Taylor, Attorney at Law
[term 03/07/00]
214/871-8209 FAX
[COR LD NTC ret]
Thomas Archibald Culpepper,
Attorney at Law
[term 03/07/00]
[COR ret]
Thompson Coe Cousins & Irons
Crescent Office Tower
200 Crescent Court
Suite 1100
Dallas, TX 75201-1840

USA
214/871-8200

GREG K WINSLETT
defendant

Greg K Winslett
214/651-4330 FAX
[COR LD NTC pse] [PRO SE]
Strasburger & Price
Bank of America
901 Main Street
Suite 4300
Dallas, TX 75202
USA
214/651-4300

Rowland B Foster, Attorney at
Law
214/651-4330 FAX
[ret]
unknown

JOHN DOE
defendant

MARY DOE
defendant

=====
LOUIS B GOHMERT, JR
defendant
[term 03/07/00]

=====
COYE CONNER, JR
counter-claimant

David M Taylor, Attorney at Law
214/871-8209 FAX
[COR LD NTC ret]
Thomas Archibald Culpepper,
Attorney at Law
[COR ret]
Thompson Coe Cousins & Irons
Crescent Office Tower
200 Crescent Court
Suite 1100
Dallas, TX 75201-1840
USA
214/871-8200

v.

JERRY MICHAEL COLLINS
counter-defendant

G David Westfall, Attorney at
Law
[term 07/24/00]
214/741-4746 FAX
[COR LD NTC ret]
Law Office of G David Westfall
5646 Milton
Suite 520
Dallas, TX 75206
USA
214/741-4741

Jerry Michael Collins
[COR LD NTC] [PRO SE]
10101 HWY 31 East
Murchison, TX 75778-3427

3/24/99 1 | COMPLAINT filed; Filing Fee \$ 150.00 Receipt # 111104
(15+) (mlh) [Entry date 03/25/99]

3/24/99 2 ✓ WITHHOLDANCE OF SUMMONS as to defendant Richard Lawrence,
defendant John Parrish, defendant Truman Price, defendant
Roxie Cluck, defendant Doris Sipes, defendant Malcolm
McGregor, defendant Tommy W Wallace, defendant Jenna L
Scott, defendant Patricia Kimble, defendant Harry Tom
Petersen, defendant Leslie P Dixon, defendant Betty Davis,
defendant Richard Currin, defendant James B Zimmermann,
defendant Robert Davis, defendant Joyce Fugate, defendant
Charles Van Cleef, defendant Coye Conner Jr, defendant Greg
K Winslett, defendant Louise B Gohmert Jr (mlh)
[Entry date 03/25/99]

3/24/99 1 | DEMAND for jury trial by plaintiff Jerry Michael Collins
(mlh) [Entry date 03/25/99]

3/24/99 -- PRELIMINARY ASSIGNMENT TO Magistrate Judge Paul Stickney
(mlh) [Entry date 03/25/99]

3/31/99 3 - WAIVER OF SERVICE Returned Executed as to Richard Lawrence
3/26/99 Answer due on 5/25/99 for Richard Lawrence (mlh)
[Entry date 04/01/99] [Edit date 04/02/99]

4/7/99 4 - SUMMONS(ES) issued for defendant Louise B Gohmert Jr,
defendant Malcolm McGregor, defendant Leslie P Dixon,
defendant Patricia Kimble, defendant Jenna L Scott,
defendant Truman Price, defendant John Parrish, defendant
Joyce Fugate, defendant Harry Tom Petersen, defendant James
B Zimmermann, defendant Robert Davis, defendant Richard
Lawrence, defendant Coye Conner Jr, defendant Charles Van
Cleef, defendant Richard Currin, defendant Greg K Winslett,
defendant Doris Sipes, defendant Betty Davis, defendant
Roxie Cluck, defendant Tommy W Wallace (ISS-20) (lag)
[Entry date 04/08/99]

4/23/99 5 - RETURN OF SERVICE executed as to defendant James B
Zimmermann 4/13/99 via personal service; Answer due on
5/3/99 for James B Zimmermann (mlh) [Entry date 04/26/99]

4/23/99 6 ✓ RETURN OF SERVICE executed as to defendant Betty Davis
4/13/99 via personal service; Answer due on 5/3/99 for
Betty Davis (mlh) [Entry date 04/26/99]

4/23/99 7 ✓ RETURN OF SERVICE executed as to defendant Coye Conner Jr
4/15/99 via personal service; Answer due on 5/5/99 for
Coye Conner Jr (mlh) [Entry date 04/26/99]

4/23/99 8 - RETURN OF SERVICE executed as to defendant Richard Currin
4/14/99 via personal service; Answer due on 5/4/99 for
Richard Currin (mlh) [Entry date 04/26/99]

CLOSED JURY

- 4/23/99 9 - RETURN OF SERVICE executed as to defendant Roxie Cluck
4/14/99 via personal service; Answer due on 5/4/99 for
Roxie Cluck (mlh) [Entry date 04/26/99]
- 4/23/99 10 - RETURN OF SERVICE executed as to defendant Truman Price
4/17/99 via personal service to atty Charles Van Cleef
Answer due on 5/7/99 for Truman Price (mlh)
[Entry date 04/26/99]
- 4/23/99 11 - RETURN OF SERVICE executed as to defendant John Parrish
4/16/99 via personal service to atty Charles Van Cleef;
Answer due on 5/6/99 for John Parrish (mlh)
[Entry date 04/26/99]
- 4/23/99 12 - RETURN OF SERVICE executed as to defendant Richard Lawrence
4/16/99 via personal service; Answer due on 5/6/99 for
Richard Lawrence (mlh) [Entry date 04/26/99]
- 4/23/99 13 - RETURN OF SERVICE executed as to defendant Leslie P Dixon
4/14/99 via personal service; Answer due on 5/4/99 for
Leslie P Dixon (mlh) [Entry date 04/26/99]
- 4/23/99 14 - RETURN OF SERVICE executed as to defendant Joyce Fugate
4/14/99 via personal service; Answer due on 5/4/99 for
Joyce Fugate (mlh) [Entry date 04/26/99]
- 4/23/99 15 - RETURN OF SERVICE executed as to defendant Doris Sipes
4/14/99 via certified mail; Answer due on 5/4/99 for Doris
Sipes (mlh) [Entry date 04/26/99]
- 4/23/99 16 - RETURN OF SERVICE executed as to defendant Tommy W Wallace
4/20/99 via personal service; Answer due on 5/10/99 for
Tommy W Wallace (mlh) [Entry date 04/26/99]
- 4/23/99 17 - RETURN OF SERVICE executed as to defendant Robert Davis
4/19/99 via personal service; Answer due on 5/10/99 for
Robert Davis (mlh) [Entry date 04/26/99]
- 4/23/99 18 **23** ANSWER to Complaint by defendant Truman Price, defendant
Richard Lawrence, defendant Joyce Fugate, defendant John
Parrish (Attorney Robert Scott Davis, L Charles Van Cleef)
(7) (mlh) [Entry date 04/26/99]
- 4/23/99 19 **30** MOTION by defendant Richard Lawrence, defendant John
Parrish, defendant Truman Price, defendant Joyce Fugate to
proceed without local counsel (3) (mlh)
[Entry date 04/26/99]
- 4/23/99 20 - RETURN OF SERVICE executed as to defendant Louis B Gohmert
Jr 4/15/99 via personal service; Answer due on 5/5/99 for
Louise B Gohmert Jr (mlh) [Entry date 04/26/99]

- 4/26/99 21 **33** MOTION by defendant James B Zimmermann, defendant Leslie P Dixon, defendant Tommy W Wallace to dismiss under Rule 12(b)(6) alternatively for abatement of action including discovery by plf (11) (mlh) [Entry date 04/27/99]
- 4/26/99 -- **Added by defendant Tommy W Wallace, defendant Leslie P Dixon, defendant James B Zimmermann attorney Daniel E Maeso, Leslie B Vance (mlh) [Entry date 04/27/99]
- 4/27/99 22 **44** ORDER granting [19-1] motion to proceed without local counsel (signed by jas) Copies to counsel: 4.28.99 Page(s) 1 (mlh) [Entry date 04/28/99]
- 4/27/99 23 **45** SUMMARY JUDGMENT BRIEFING SCHEDULE...See order for specifics (signed by jas) Copies to counsel: 4.28.99 Page(s) 1 (mlh) [Entry date 04/28/99]
- 4/28/99 24 RETURN OF SERVICE executed as to defendant Charles Van Cleef 4/22/99 via certified mail; Answer due on 5/12/99 for Charles Van Cleef (mlh) [Entry date 04/29/99]
- 4/28/99 25 RETURN OF SERVICE executed as to defendant Greg K Winslett 4/21/99 via certified mail; Answer due on 5/11/99 for Greg K Winslett (mlh) [Entry date 04/29/99]
- 4/29/99 26 **46** ANSWER to Complaint by defendant Betty Davis (Attorney L Charles Van Cleef), (7) (mlh) [Entry date 04/30/99]
- 4/29/99 27 **53** MOTION by defendant Betty Davis for leave to proceed without local counsel (3) (mlh) [Entry date 04/30/99]
- 4/30/99 28 **58** ANSWER to Complaint by defendant Doris Sipes, defendant Malcolm McGregor, defendant Harry Tom Petersen (10) (mlh)
- 4/30/99 29 **66** MOTION by defendant Robert Davis, defendant Charles Van Cleef for leave to proceed without local counsel (3) (mlh)
- 4/30/99 -- **Added by defendant Robert Davis, defendant Charles Van Cleef attorney Daryl Lee Derryberry (mlh)
- 4/30/99 30 **76** ANSWER to Complaint by defendant Robert Davis, defendant Charles Van Cleef (7) (mlh)
- 5/3/99 31 **69** MOTION by defendant Louis B Gohmert Jr to dismiss under Rule 12(b)(6) and to abate discovery and in the alternative original answer of Judge Louis B Gohmert Jr (4) (mlh) [Entry date 05/04/99]
- 5/3/99 32 **usc1** MOTION by defendant Louise B Gohmert Jr for sanctions under Rule 11(b) (15+) (mlh) [Entry date 05/04/99]
- 5/3/99 33 **73** MOTION by defendant Richard Currin for leave to proceed without local counsel (3) (mlh) [Entry date 05/04/99]

- 5/3/99 34 **83** ANSWER to Complaint by defendant Richard Currin (7) (mlh)
[Entry date 05/04/99]
- 5/3/99 35 **90** ANSWER to Complaint by defendant Roxie Cluck (Attorney
Roxie W Cluck), (9) (mlh) [Entry date 05/04/99]
- 5/3/99 36 **99** MOTION by defendant Coye Conner Jr to dismiss or
alternatively motion for summary judgment (3) (mlh)
[Entry date 05/04/99]
- 5/3/99 -- **Added by defendant Coye Conner Jr attorney David Michael
Taylor, Thomas Archibald Culpepper (mlh)
[Entry date 05/04/99]
- 5/3/99 37 **102** MEMORANDUM by defendant Coye Conner Jr in support of [36-1]
motion to dismiss or alternatively motion for summary
judgment (15+) (mlh) [Entry date 05/04/99]
- 5/4/99 38 **144** MOTION by defendant Coye Conner Jr for judicial notice
(15+) (mlh) [Entry date 05/05/99]
- 5/4/99 39 **167** MOTION by defendant Betty Davis to dismiss under Rule
12(b)(6), alternatively under Rule 7(a) FRCP "Shultea" for
abatement of this action including discovery by plf until
plf complies with the rules of pleading and the court has
determined the issue of derived absolute judicial immunity
as raised in dfts' motion for dismissal on the plf's
pleadings (13) (mlh) [Entry date 05/05/99]
- 5/5/99 40 **180** ANSWER to Complaint by defendant Greg K Winslett (Attorney
Rowland B Foster), (6) (mlh) [Entry date 05/06/99]
- 5/10/99 41 **186** CERTIFICATE OF CONFERENCE by defendant Charles Van Cleef,
defendant Robert Davis Re: [29-1] motion for leave to
proceed without local counsel (2) (mlh)
[Entry date 05/11/99]
- 5/10/99 42 **188** CERTIFICATE OF CONFERENCE by defendant Betty Davis Re:
[27-1] motion for leave to proceed without local counsel
(3) (mlh) [Entry date 05/11/99]
- 5/10/99 43 **191** ORDER granting [27-1] motion for leave to proceed without
local counsel (signed by jas) Copies to counsel: 5.11.99
Page(s) 1 (mlh) [Entry date 05/11/99]
- 5/10/99 44 **192** ORDER granting [29-1] motion for leave to proceed without
local counsel (signed by jas) Copies to counsel: 5.11.99
Page(s) 1 (mlh) [Entry date 05/11/99]
- 5/17/99 45 **193** NOTICE of attorney appearance for plaintiff Jerry Michael
Collins by G David Westfall (2) (mlh) [Entry date 05/18/99]
- 5/18/99 46 **195** MOTION by plaintiff Jerry Michael Collins to extend time
to respond to dft Gohmert's Rule 11b and 12b motions (6)

(mlh) [Entry date 05/19/99]

- 5/19/99 47 **201** STIPULATION by plaintiff Jerry Michael Collins, defendant Roxie Cluck to enlarge time for plf to respond to dft Cluck's 12B motion to dismiss (2) (mlh) [Entry date 05/20/99]
- 5/21/99 48 **203** ORDER on the parties' stipulation to enlarge time Response to motion reset to 7/19/99 for [39-1] motion to dismiss under Rule 12(b)(6), alternatively under Rule 7(a) FRCP "Shultea" for abatement of this action including discovery by plf until plf complies with the rules of pleading and the court has determined the issue of derived absolute judicial immunity as raised in dfts' motion for dismissal on the plf's pleadings (signed by jas) Copies to counsel: 5.21.99 Page(s) 1 (mlh)
- 5/24/99 49 **204** STIPULATION TO ENLARGE TIME for plf to respond to dft Conner's motion to dismiss, alternatively motion for summary judgment by plaintiff Jerry Michael Collins, defendant Coye Conner Jr (2) (mlh) [Entry date 05/25/99]
- 5/24/99 50 **206** STIPULATION by plaintiff Jerry Michael Collins, defendant Doris Sipes to enlarge time for plf to respond to dft Sipes' 12B motion to dismiss (2) (mlh) [Entry date 05/25/99]
- 5/25/99 51 **208** ORDER ON THE PARTIES' STIPULATION TO ENLARGE TIME...Time to respond to dfts motion to dismiss enlarged until 7/19/99 (signed by jas) Copies to counsel: 5.26.99 Page(s) 1 (mlh) [Entry date 05/26/99]
- 5/25/99 52 **209** ORDER ON PARTIES' STIPULATION TO ENLARGE TIME...Time to respond to dft's Rule 12b motion to dismiss enlarged to 7/19/99 (signed by jas) Copies to counsel: 5.26.99 Page(s) 1 (mlh) [Entry date 05/26/99]
- 6/1/99 53 **210** MOTION by plaintiff Jerry Michael Collins to extend time to respond to dfts Wallace, Zimmermann, Dixon's 12b motions (8) (mlh) [Entry date 06/02/99]
- 6/1/99 54 **218** MOTION by defendant James B Zimmermann, defendant Tommy W Wallace, defendant Leslie P Dixon for summary judgment (4) (mlh) [Entry date 06/02/99]
- 6/1/99 55 **222** MEMORANDUM by defendant James B Zimmermann, defendant Tommy W Wallace, defendant Leslie P Dixon in support of [54-1] motion for summary judgment (15+) (mlh) [Entry date 06/02/99]
- 6/1/99 56 **242** APPENDIX by defendant Tommy W Wallace, defendant Leslie P Dixon, defendant James B Zimmermann in support of [54-1] motion for summary judgment (8) (mlh) [Entry date 06/02/99]

- 6/2/99 57 **250** MOTION by defendant Joyce Fugate, defendant Richard Lawrence, defendant John Parrish, defendant Truman Price for summary judgment (4) (mlh)
- 6/2/99 58 **254** MEMORANDUM by defendant Joyce Fugate, defendant Richard Lawrence, defendant John Parrish, defendant Truman Price in support of [57-1] motion for summary judgment (15+) (mlh)
- 6/3/99 59 **287** MOTION by defendant Richard Lawrence, defendant John Parrish, defendant Truman Price, defendant Betty Davis, defendant Joyce Fugate, defendant Robert Davis, defendant Charles Van Cleef to extend time to file dfts' motion for summary judgment (4) (mlh)
- 6/3/99 60 **USC8** APPENDIX by defendant Richard Lawrence, defendant John Parrish, defendant Truman Price, defendant Betty Davis, defendant Robert Davis, defendant Joyce Fugate, defendant Charles Van Cleef in support of [57-1] motion for summary judgment (15+) (USC) (mlh)
- 6/9/99 61 **291** ORDER granting [59-1] motion to extend time to file dfts' motion for summary judgment; Dfts have until 6/4/99 in which to file their motion for summary judgment (signed by jas) Copies to counsel: 6.10.99 Page(s) 1 (mlh) [Entry date 06/10/99]
- 6/18/99 -- Vacation letter from David Westfall (2) (mlh)
- 6/23/99 62 - SUMMONS(ES) issued for defendant Jenna L Scott (iss 1) (tsp) [Entry date 06/24/99]
- 7/8/99 63 **292** MOTION by plaintiff Jerry Michael Collins to amend [1-1] complaint (2) (mlh) [Entry date 07/09/99]
- 7/8/99 64 **USC2** RESPONSE by plaintiff Jerry Michael Collins to [54-1] motion for summary judgment (15+) (USC) (mlh) [Entry date 07/09/99]
- 7/16/99 65 **294** MOTION by defendant Betty Davis, defendant Richard Lawrence, defendant John Parrish, defendant Truman Price, defendant Joyce Fugate to stay discovery and disclosure (3) (mlh) [Entry date 07/19/99]
- 7/19/99 66 **297** SUPPLEMENTAL MOTION to dismiss and for sanctions by referring to [32-1] motion for sanctions under Rule 11(b), [31-1] motion to dismiss under Rule 12(b)(6) and to abate discovery and in the alternative original answer of Judge Louis B Gohmert Jr (7) (mlh) [Entry date 07/20/99]
- 7/19/99 67 **304** MOTION by plaintiff Jerry Michael Collins to extend time to respond to dfts Parrish, Fugate, B Davis, Price, Van Cleef & R Davis' motion for summary judgment (2) (mlh) [Entry date 07/20/99]

CLOSED JURY

- 7/19/99 68 **306** CERTIFICATE OF CONFERENCE by plaintiff Jerry Michael Collins Re: [53-1] motion to extend time to respond to dfts Wallace, Zimmermann, Dixon's 12b motions (2) (mlh) [Entry date 07/20/99]
- 7/19/99 69 **308** AMENDED CERTIFICATE OF CONFERENCE by plaintiff Jerry Michael Collins Re: [63-1] motion to amend [1-1] complaint (2) (mlh) [Entry date 07/20/99]
- 7/19/99 70 **310** AFFIDAVIT by plaintiff Jerry Michael Collins (15) (mlh) [Entry date 07/20/99]
- 7/19/99 71 **325** RESPONSE by plaintiff Jerry Michael Collins to [57-1] motion for summary judgment (2) (mlh) [Entry date 07/20/99]
- 7/19/99 72 **327** MEMORANDUM by plaintiff Jerry Michael Collins in support of [71-1] motion response (15+) (mlh) [Entry date 07/20/99]
- 7/19/99 73 **355** APPENDIX by plaintiff Jerry Michael Collins in support of [71-1] motion response (15+) (mlh) [Entry date 07/20/99]
- 7/20/99 74 **455** ORDER granting [67-1] motion to extend time to respond to dfts Parrish, Fugate, B Davis, Price, Van Cleef & R Davis' motion for summary judgment; time extended until 7/19/99 (signed by jas) Copies to counsel: 7.21.99 Page(s) 1 (mlh) [Entry date 07/21/99]
- 7/21/99 75 **456** MEMORANDUM by plaintiff Jerry Michael Collins in support of plf's response to dfts' motions to dismiss under Rule 12(b)(6), alternatively under Rule 7(a) FRCP "Shultea" for abatement in this action (15+) (mlh) [Entry date 07/22/99]
- 7/26/99 76 **415** AMENDED MOTION for summary judgment by defendant Tommy W Wallace, defendant Leslie P Dixon, defendant James B Zimmermann referring to [54-1] motion for summary judgment (15) (mlh) [Entry date 07/27/99]
- 7/28/99 77 **490** MOTION by defendant Richard Lawrence, defendant John Parrish, defendant Truman Price, defendant Betty Davis, defendant Joyce Fugate to quash subpoenas duces tecum and for protective order (15+) (mlh) [Entry date 07/29/99]
- 7/28/99 78 **USCA** FIRST AMENDED COMPLAINT by plaintiff Jerry Michael Collins, (Answer due 8/9/99 for Greg K Winslett, for Coye Conner Jr, for Charles Van Cleef, for Joyce Fugate, for Robert Davis, for Richard Currin, for Betty Davis, for Leslie P Dixon, for Harry Tom Petersen, for Patricia Kimble, for Jenna L Scott, for Tommy W Wallace, for Malcolm McGregor, for Doris Sipes, for Roxie Cluck, for Truman Price, for John Parrish) amending [1-1] complaint against Louis B Gohmert Jr (15+) (USC) (mlh) [Entry date 07/29/99]
- 7/28/99 79 **510** ORDER granting [63-1] motion to amend [1-1] complaint (signed by jas) Copies to counsel: 7.29.99 Page(s) 1 (mlh)

[Entry date 07/29/99]

- 7/29/99 80 **511** ORDER granting [33-1] motion for leave to proceed without local counsel (signed by JAS) Copies to counsel: Page(s) 1 (cxj) [Entry date 07/30/99]
- 7/29/99 81 **512** ORDER granting [53-1] motion to extend time to respond to dfts Wallace, Zimmermann, Dixon's 12b motions Response to motion reset to 7/21/99 for [21-1] motion to dismiss under Rule 12(b)(6) alternatively for abatement of action including discovery by plf (signed by JAS) Copies to counsel: 07/30/99 Page(s) 1 (cxj) [Entry date 07/30/99]
- 7/29/99 82 **513** ORDER granting [46-1] motion to extend time to respond to dft Gohmert's Rule 11b and 12b motions Response to motion reset to 8/6/99 for [32-1] motion for sanctions under Rule 11(b), reset to 8/6/99 for [31-1] motion to dismiss under Rule 12(b)(6) and to abate discovery and in the alternative original answer of Judge Louis B Gohmert Jr (signed by JAS) Copies to counsel: 07/30/99 Page(s) 1 (cxj) [Entry date 07/30/99]
- 8/3/99 83 **514** ANSWER by defendant Greg K Winslett to first amended complaint (11) (mlh) [Entry date 08/04/99]
- 8/9/99 84 **525** AMENDED ANSWER to Complaint by defendant Doris Sipes, defendant Malcolm McGregor, defendant Harry Tom Petersen : amends [28-1] answer (15+) (mlh) [Entry date 08/10/99]
- 8/11/99 85 - REISSUED SUMMONS for defendant Patricia Kimble (reiss 1) (mlh)
- 8/11/99 86 **543** ORDER granting [65-1] motion to stay discovery and disclosure; Discovery in this suit is stayed pending further Order of this Court (signed by jas) Copies to counsel: 8.11.99 Page(s) 1 (mlh)
- 8/16/99 87 **544** ANSWER by defendant Roxie Cluck to first amended complaint (15+) (mlh) [Entry date 08/17/99]
- 8/16/99 88 **564** ANSWER by defendant John Parrish, defendant Truman Price, defendant Betty Davis, defendant Joyce Fugate (Attorney) to amended complaint; jury demand (12) (mlh) [Entry date 08/17/99]
- 8/16/99 89 **576** ANSWER by defendant Robert Davis, defendant Charles Van Cleef to amended complaint; jury demand (11) (mlh) [Entry date 08/17/99]
- 8/16/99 90 **587** SUPPLEMENTAL MOTION to dismiss by defendant Coye Conner Jr referring to motion to dismiss filed 5/3/99 (13) (mlh) [Entry date 08/17/99]

CLOSED JURY

- 8/16/99 90 587 ANSWER by defendant Coye Conner Jr to first amended complaint subject to Conner's supplemental motion to dismiss (13) (mlh) [Entry date 08/17/99]
- 8/16/99 90 587 COUNTERCLAIM by defendant Coye Conner Jr against plaintiff Jerry Michael Collins (13) (mlh) [Entry date 08/17/99]
- 8/23/99 91 600 ANSWER to Complaint by defendant Jenna L Scott (11) (mlh). [Entry date 08/24/99]
- 9/20/99 92 611 ANSWER to Complaint by defendant James B Zimmermann ;jury demand (3) (mlh) [Entry date 09/21/99]
- 9/20/99 93 - RETURN OF SERVICE executed as to defendant Patricia Kimble 8/31/99 via personal service; Answer due on 9/20/99 for Patricia Kimble (mlh) [Entry date 09/21/99]
- 9/21/99 94 614 ANSWER by defendant Patricia Kimble (Attorney Boyd Wray Naylor) to first amended complaint (15) (mlh) [Entry date 09/22/99]
- 3/7/00 95 629 ORDER..All of the claims both RICO and state law against Judge Wallace, Judge Gohmert, Dixon, Price, Betty Davis, Parrish, Fugate, Scott, Petersen, Kimble and Conner are dismissed with prejudice; See order for specifics (signed by jas) Copies to counsel: 3.8.00 Page(s) 18 (mlh) [Entry date 03/08/00] [Edit date 03/08/00]
- 3/7/00 -- **Terminated party Louis B Gohmert, party Coye Conner, party Joyce Fugate, party Betty Davis, party Leslie P Dixon, party Tommy W Wallace (mlh) [Entry date 03/09/00]
- 3/10/00 -- **Terminated motion(s) [90-1] supplemental motion to dismiss, [77-1] motion to quash subpoenas duces tecum and for protective order, [76-1] amended motion for summary judgment, [66-1] supplemental motion to dismiss and for sanctions, [57-1] motion for summary judgment, [54-1] motion for summary judgment, [39-1] motion to dismiss under Rule 12(b)(6), alternatively under Rule 7(a) FRCP "Shultea" for abatement of this action including discovery by plf until plf complies with the rules of pleading and the court has determined the issue of derived absolute judicial immunity as raised in dfts' motion for dismissal on the plf's pleadings, [38-1] motion for judicial notice, [36-1] motion to dismiss or alternatively motion for summary judgment, [32-1] motion for sanctions under Rule 11(b), [31-1] motion to dismiss under Rule 12(b)(6) and to abate discovery and in the alternative original answer of Judge Louis B Gohmert Jr, [21-1] motion to dismiss under Rule 12(b)(6) alternatively for abatement of action including discovery by plf...per instruction from Judge Solis' chambers (ldm)

CLOSED JURY

3/10/00 96 ⁶⁴⁷ FINAL JUDGMENT that pltf Jerry Michael Collins shall take nothing from all of his RICO and state law claims against Judge Tommy W. Wallace, Judge Louis B. Gohmert, Judge Richard Lawrence, Judge James B. Zimmerman, Leslie P. Dixon, Truman Price, Betty Davis, John Parrish, Joyce Fugate, Jenna L. Scott, Harry Tom Petersen, Patricia Kimble and Coye Conner, Jr.; pltf shall take nothing from his RICO and RICO conspiracy claims against dfts Roxie Cluck, Doris Sipes, Malcolm McGregor, Richard Currin, Robert Davis, Charles Van Cleef and Greg Winslett; pltf's breach of fiduciary duty claims against Roxie Cluck and Richard Currin and the state law fraud claims against Roxie Cluck, Doris Sipes, Malcolm McGregor, Richard Currin, Robert Davis, Charles Van Cleef and Greg Winslett are dismissed without prejudice; costs incurred by the dfts shall be assessed against pltf (signed by JAS) Copies to counsel: 3/13/00 Page(s): 2 (djd) [Entry date 03/13/00]

3/10/00 -- Case closed (djd) [Entry date 03/13/00]

3/27/00 97 ⁶⁴⁹ MEMORANDUM by plaintiff Jerry Michael Collins in opposition to [32-1] motion for sanctions under Rule 11(b) (4) (mlh) [Entry date 03/28/00]

4/4/00 98 ⁶⁵³ NOTICE OF APPEAL by plaintiff Jerry Michael Collins re [95-1] order Payment: 105.00 Receipt # 124082 Appeal record due on 4/20/00 TO mailed (1) cc:Judge (jmr) [Entry date 04/05/00] [Edit date 04/11/00]

4/4/00 -- Notice of appeal and certified copy of docket to USCA: [98-1] appeal (jmr) [Entry date 04/05/00] [Edit date 04/11/00]

4/20/00 -- USCA5 received NOA 4/10/00 (jmr)

4/20/00 -- USCA Case Number, 00-10373 Re: [98-1] appeal (jmr)

4/21/00 -- Transmitted record on appeal 3 vol. record and 4 vol. USC to U.S. Court of Appeals: [98-1] appeal (jmr)

4/21/00 -- **Address labels only (jmr)

5/4/00 99 ⁶⁵⁴ ORDER Reply to Response to Motion set for 5/22/00 for motion for sanctions RE: Judge Gohmert's motion for sanctions filed 3/27/00; Judge Gohmert has until 5/22/00 to file a reply to plf's memorandum in response to motion for sanctions (signed by jas) Copies to counsel: 5.4.00 Page(s) 1 (mlh)

5/12/00 -- USCA5 received ROA 4/27/00 (jmr)

5/16/00 100 ⁶⁵⁵ REPLY by to response to [32-1] motion for sanctions under Rule 11(b) (5) (mlh) [Entry date 05/17/00]

CLOSED JURY

7/19/00 101 ⁶⁶⁰ MOTION by plaintiff Jerry Michael Collins for G David Westfall to withdraw as attorney (3) (mlh)

7/24/00 102 ⁶⁶³ ORDER granting [101-1] motion for G David Westfall to withdraw as attorney (signed by jas) Copies to counsel: 7.25.00 Page(s) 1 (mlh) [Entry date 07/25/00]

7/24/00 -- **Terminated attorney G David Westfall for Jerry Michael Collins, attorney G David Westfall for Jerry Michael Collins (mlh) [Entry date 07/25/00]

7/26/00 103 ⁶⁶⁴ ORDER granting Judge Gohmert's motion for sanctions filed 5/3/99; Within 20 days from the date of entry of this order, both Jerry Michael Collins & G David Westfall are each directed to pay \$2500 to the Clerk of the Court; Parties are directed to submit Rule 11 evidence & arguments in the manner set forth at pages 6-7 of this order (signed by jas) Copies to counsel: 7.27.00 Page(s) 8 (mlh) [Entry date 07/27/00]

8/16/00 104 ⁶⁷² RESPONSE by plaintiff Jerry Michael Collins to [103-1] order (15+) (USC) (mlh) [Entry date 08/17/00]

8/17/00 105 ⁷³⁰ AFFIDAVIT of Louis B Gohmer Jr (2) (mlh)

8/25/00 106 ⁷³² SUPPLEMENTAL DOCUMENT to [104-1] by plaintiff Jerry Michael Collins (15+) (mlh)

8/29/00 107 ⁷⁷⁰ MOTION by plaintiff Jerry Michael Collins for immunity from sanctions (5) (mlh)

9/8/00 108 ⁷⁷⁵ ORDER...Clerk is directed to serve a copy of dft Gohmert's 8/17/00 affidavit on plf Jerry Michael Collins and G David Westfall; Plf and Westfall have until 9/26/00 to submit a reply if any to such affidavit (signed by jas) Copies to counsel: 9.8.00 Page(s) 1 (mlh)

9/8/00 -- **Address labels only (mlh)

9/13/00 109 CERTIFIED MAIL executed as to Jerry Michael Collins 9/12/00 [105-1] affidavit (mlh)

9/15/00 110 CERTIFIED MAIL executed 9/13/00 as to G David Westfall RE [105-1] affidavit (mlh)

9/15/00 111 ⁷⁷⁶ THIRD RESPONSE by plaintiff Jerry Michael Collins to [103-1] order, [108-1] order (15+) (mlh) [Entry date 09/18/00]

10/23/00 112 ⁸¹² MOTION by plaintiff Jerry Michael Collins for leave to file new suit (7) (mlh)

CLOSED JURY

12/22/00 113 819 NOTICE of ADDRESS CHANGE by plaintiff Jerry Michael Collins
New address is: 10101 Hwy 31 East; Murchison, TX 75778-3427
(3) (mlh)

1/24/01 -- USCA to return record (jmr)

1/24/01 114 822 PER CURIAM ORDER of USCA ... Judgment of the district court
therefore is in all respects affirmed and appellant's
motions before this court are denied. (4) cc:Judge
(certified copy) Re: [98-1] appeal (jmr)

1/24/01 115 826 JUDGMENT OF USCA ... Judgment of the District Court is
affirmed ... It is further ordered that plaintiff pay to
defendants the costs on appeal (certified copy) Re: [98-1]
appeal Issued as mandate on 1/22/01 (1) cc:Judge (jmr)

1/24/01 -- **Remove appeal flag - no further appeals pending (jmr)

1/24/01 116 827 Bill of costs AGAINST PLAINTIFF from USCA (jmr)

1/25/01 -- Record on appeal returned 7 vol. from U.S. Court of
Appeals: (jmr)

3/26/01 117 828 ORDER granting [32-1] motion for sanctions under Rule
11(b), denying [112-1] motion for leave to file new suit,
denying [107-1] motion for immunity from sanctions. (see
order for specifics) (Signed by Judge Jorge A. Solis)
Copies to counsel: 03/27/01 Page(s) 4 (lmr)
[Entry date 03/28/01]

4/6/01 -- Received envelope back 'forwarding order expired return to
sender' on order sent to Boyd Wray Naylor...called and spoke
to Jackie at Dudley Dudley Windle & Stevens who said Mr.
Naylor no longer works there, is not in El Paso and does not
practice law anymore. Jackied said no other attorney at
that firm is representing Patricia Kimble. Modified notice
to 'n'. (cab) [Edit date 04/06/01]

4/11/01 118 832 NOTICE OF APPEAL by plaintiff Jerry Michael Collins, for
this Court's sanctions order re: [117-1] order Payment:
105.00 Receipt # 149686 (2) (tem) [Entry date 04/12/01]

4/12/01 -- Notice of appeal and certified copy of docket to USCA:
[118-1] appeal (1) (tem) [Edit date 04/12/01]

4/24/01 -- SETTING APPEAL RECORD DEADLINE . [118-1] appeal . Appeal
record due on 5/9/01 (svc)

4/26/01 -- USCA Case Number, 01-10502 Re: [118-1] appeal. (tem)
[Entry date 04/27/01]

5/10/01 -- Transmitted record on appeal to U.S. Court of Appeals:
[118-1] appeal consisting of 7 vols of case papers (svc)

INTERNAL USE ONLY: Proceedings include all events.
3:99cv641 Collins v. Lawrence, et al

M-STI APPEAL

CLOSED JURY

5/10/01 -- **Address labels only (svc)

ORIGINAL

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
APR 11 2001
CLERK, U.S. DISTRICT COURT
By _____ Deputy *Jm*

JERRY MICHAEL COLLINS,)
)
Plaintiff)
)
VS.)
)
RICHARD LAWRENCE, et al)
Defendants.)

CIVIL ACTION 399CV0641-P

PLAINTIFF JERRY MICHAEL COLLINS'
NOTICE OF APPEAL OF SANCTIONS

TO THE HONORABLE JUDGE JORGE A. SOLIS:

Plaintiff Jerry Michael Collins files this Notice of Appeal to the Fifth Circuit Court of Appeals for this Court's Sanctions Order under the Court's Inherent Power and under Rule 11(b) filed March 26, 2001.

Enclosed is the required \$105.00 filing fee.

Respectfully submitted,
[Signature]
Jerry Michael Collins, Plaintiff *pro se*
10101 Hwy. 31-East
Murchison, TX 75778

RECORD EXCERPT
#2

118

00832

cyf

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAR 7 2000
NANCY DOHERTY, CLERK
BY Deputy

JERRY MICHAEL COLLINS
Plaintiff,

§
§
§
§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO.
3:99-CV-0641-P

JOHN PARRISH, et al.,
Defendants.

RECEIVED
MAR - 8 2000
U.S. DISTRICT CLERK'S OFFICE

ORDER

This is a civil rights suit filed by plaintiff Jerry Michael Collins ("Collins" or "plaintiff") against the sheriff, constable, district attorney, and tax assessor-collector of Van Zandt County, Texas, two Texas state district judges, one of the district judges' court coordinator, nine attorneys, and two private individuals.¹ Collins seeks monetary damages for alleged violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961, *et seq.*, RICO conspiracy, fraud and breach of fiduciary duties. In his First Amended Complaint, Collins alleges he was in the business of providing courtroom documentation services for use in litigation. Collins further alleges that this suit arises out of a scheme designed to destroy the unique services he had created. Collins maintains that his business was destroyed when "some El Paso lawyers, conspired with two women from El Paso, who conspired with at least one east Texas lawyers

¹ Plaintiff's original complaint named James B. Zimmerman, a state district judge, and Richard Lawrence, Van Zandt County Judge, as defendants. However, Judge Zimmerman and Judge Lawrence are not named in plaintiff's First Amended Complaint, and plaintiff does not respond to Judge Zimmerman's or Judge Lawrence's motions for summary judgment. The court assumes that Collins has abandoned his claims against Judge Zimmerman and Judge Lawrence.

as

RECORD EXCERPT
~~SECRET~~
#3

00020

[sic], who conspired with Van Zandt County law enforcement officers, the 294th district court coordinator, district judges, the county tax collector, and every lawyers [sic] Collins hired to represent him or attempted to hire to represent him.” (First Amend. Comp. pp. 9-10). The actions of which Collins complains has spawned a web of litigation, as this appears to be at least the fourth suit filed by Collins stemming from the alleged conspiracy to destroy his business.

This lawsuit apparently had its beginnings in July 1995 when Collins and defendant Jenna Scott were involved in a divorce proceeding in the state district court of Van Zandt County, Texas. Collins alleges that on July 17, 1995, defendant John Parrish, then a Van Zandt County constable, stood watch while Jenna Scott and Patricia Kimble, both named defendants in the present suit, unlawfully entered and searched plaintiff’s residence and seized his personal and business belongings. Collins then alleges that Scott, Scott’s lawyer, the lawyers who represented Collins in the divorce proceedings, the court coordinator, and the district judge conspired to “deprive plaintiff of his constitutional rights of due process against unlawful search and seizure and for honest and due judicial administration.” (Plaintiff’s Brief in Support of Response to Defendants Wallace, Zimmerman and Dixon’s Motion for Summary Judgment at pp. 7-8). Plaintiff further alleges that the conspiracy involved “keeping Plaintiff tied up in court, delaying and denying Plaintiff’s motions, misrepresenting and concealing material facts from Plaintiff concerning hearing and trial dates for his legal proceedings with the intent that Plaintiff would not be able to appear timely for certain hearings and other settings improperly noticed.” *Id.* Plaintiff alleges that as a result of the conspiracy to destroy his business he suffered the loss of his home, business reputation, income from his business, and business and personal property that was never returned to him.

Pending before the court are motions for summary judgment filed by Judge Tommy W. Wallace, Leslie Dixon, John Parrish, Truman Price, Joyce Fugate, Betty Davis, Charles Van Cleef, and Robert Davis. Also pending are motions to dismiss filed by defendants Judge Louis B. Gohmert, Jr., Coye Conner, Jr., Doris Sipes, Malcolm McGregor, Harry Tom Petersen, Roxie Cluck, Patricia Kimble, and Jenna L. Scott.

Summary judgment is proper when there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law. Fed. R. Civ. Proc. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). A dispute is genuine if the issue could be resolved in favor of either party. *Matsushita Electric Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986); *Thurman v. Sears Roebuck & Co.*, 952 F.2d 128, 131 (5th Cir. 1992), *cert. denied*, 113 S.Ct. 136 (1992). A fact is material if it might reasonably affect the outcome of the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 at 248.

A party moving for summary judgment who does not have the burden of proof at trial must point to the absence of a genuine fact issue. *Duffy v. Leading Edge Products, Inc.*, 44 F.3d 308, 312 (5th Cir. 1995). The burden then shifts to the non-moving party to show that summary judgment is not proper. *Duckett v. City of Cedar Park*, 950 F.2d 272, 276 (5th Cir. 1992). Once the moving party has made an initial showing, the party opposing the motion must come forward with competent summary judgment evidence of the existence of a genuine fact issue. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). Mere assertions of a factual dispute unsupported by probative evidence will not prevent summary judgment. *Anderson*, 477 U.S. at 248-50; *Abbot v. Equity Group, Inc.*, 2 F.3d 613, 619 (5th Cir. 1993). All evidence must be viewed in light most favorable to the non-moving party; however, conclusory statements,

speculation, and unsubstantiated assertions will not suffice to defeat a motion for summary judgment. *Douglas v. United Services Auto. Ass'n*, 79 F.3d 1415, 1429 (5th Cir. 1996) (*en banc*). If the non-moving party fails to make a showing sufficient to establish the existence of an element essential to his case, and on which he bears the burden of proof at trial, summary judgment must be granted. *Celotex Corp.*, 477 U.S. at 322-23. Finally, the court has no duty to search the record for triable issues. The court need only rely on the portions of the submitted documents to which the non-moving party directs the court. *Guarino v. Brookfield Township Trustees*, 980 F.2d 399, 403 (6th Cir. 1992).

A Rule 12(b)(6) motion to dismiss for failure to state a claim should not be granted unless it “appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). To avoid dismissal for failure to state a claim, a plaintiff must plead specific facts and not mere conclusory, unsupported allegations. *Elliott v. Foufas*, 867 F.2d 877, 881 (5th Cir. 1989).

Claims against the state judges

Collins brings claims against Tommy W. Wallace, Judge of the 294th District Court of Van Zandt County, Texas, and Louis B. Gohmert, Jr., Judge of the 7th District Court of Smith County, Texas. With respect to Judge Wallace, Collins’ claims are based on Judge Wallace’s failure to take any action when Collins reported an assault to the judge and Judge Wallace’s subsequent conspiracy with Van Zandt District Attorney Leslie Dixon to refuse to file assault charges; Judge Wallace’s denial of Collins’ request to dismiss or nonsuit a divorce proceeding; setting hearings and trial dates without notifying Collins; not responding to Collins’ request for a copy of the transcript of a court hearing at which Judge Wallace had demonstrated bias against Collins; and

finally, Judge Wallace's conspiracy with Joyce Fugate, Van Zandt county tax assessor-collector, to refuse to provide Collins tax information on Collins' van which was registered in Van Zandt County. Collins' claims against Judge Gohmert stem from Judge Gohmert's granting the defendant's motion for summary judgment in a suit pending in Judge Gohmert's court in which Collins was suing a former attorney.² Both Judge Wallace and Judge Gohmert move for dismissal on the grounds of absolute judicial immunity.

It is well established that judges are clothed with absolute immunity from claims arising from performance of judicial functions. *Boyd v. Biggers*, 31 F.3d 279, 284 (5th Cir. 1994). Judicial immunity can be overcome only by a showing that the actions complained of were nonjudicial in nature or that the actions were taken in the complete absence of all jurisdiction. *Id.* "A judge's acts are judicial in nature if they are normally performed by a judge and the parties affected dealt with the judge in his judicial capacity." *Id.* (internal citations and quotations omitted). In determining whether acts are judicial in nature, courts consider whether (1) the act complained of is a normal judicial function; (2) the acts occurred in the courtroom or appropriate adjunct spaces such as the judge's chambers; (3) the controversy centered around a case pending before the court; and (4) whether the acts arose directly out of a visit to the judge in his official capacity. *Malina v. Gonzales*, 994 F.2d 1121, 1124 (5th Cir. 1993). All of Judge Gohmert's acts of which Collins complains were judicial in nature, as they were taken in relation to a lawsuit pending before Judge Gohmert. There is no allegation or showing that Judge Gohmert acted in complete absence of all jurisdiction. Thus, Judge Gohmert is entitled to absolute immunity, and

² The complaint alleges nothing specific against Judge Gohmert other than the broad allegation that Judge Gohmert was involved in a conspiracy against Collins. The only specific facts pertaining to Judge Gohmert are contained in a "Chronology" attached to plaintiff's First Amended Complaint.

all of Collins' claims against Judge Gohmert are dismissed with prejudice.³

The acts of Judge Wallace pertaining to setting hearings and trial dates, the alleged concealment of these settings, and rulings on motions are also clearly judicial acts and Judge Wallace is entitled to absolute immunity from Collins' claims stemming from these acts.

Collins' remaining claims are that Judge Wallace failed to take any action with respect to an assault reported by Collins, conspired with the district attorney to refuse to file assault charges brought by Collins, and conspired with the county tax assessor-collector to refuse to provide Collins with tax information about Collins' van. While these acts are not judicial in nature, the court finds that plaintiff's allegations are insufficient to withstand the motion for summary judgment.

Collins seeks to impose liability on Judge Wallace for these acts on the asserted theory that Judge Wallace joined a conspiracy to deprive plaintiff of his property and of his constitutional rights. However, Collins' allegations of conspiracy are no more than conclusory assertions. Apart from his own assertions and conjecture, Collins cites no facts from which it may be inferred that Judge Wallace joined a conspiracy that had as its mission the destruction of plaintiff's business and the deprivation of plaintiff's constitutional rights. *Russell v. Millsap*, 781 F.2d 381, 383 (5th Cir. 1985); *Morrison v. City of Baton Rouge*, 761 F.2d 242, 246 (5th Cir. 1985). Conclusory, unsupported assertions are insufficient to defeat a motion for summary judgment. *Marshall v. East Carroll Parish Hospital Services District*, 134 F.3d 319, 324 (5th Cir. 1998). Finally, it is not a judge's role to bring criminal charges or to initiate criminal prosecutions.

³ Judge Gohmert has also filed a motion for sanctions against Collins to which Collins has not responded. That motion will be addressed by separate order at the conclusion of this case. Collins is directed to file a response to Judge Gohmert's motion for sanctions within 20 days from the date of this order.

Similarly, it is not a judge's role to disseminate information from the tax assessor's office. Collins cites no authority allowing claims against judges for these acts. Accordingly, all of Collins' claims against Judge Wallace are dismissed with prejudice.

Claims against Leslie Dixon

Collins alleges that Dixon, the Van Zandt district attorney, failed to file assault charges brought by Collins and failed to investigate a reported illegal search and seizure at Collins' home. Like judges, criminal prosecutors enjoy absolute immunity from claims for actions that "are intimately associated with the judicial phase of the criminal process." *Burns v. Reed*, 500 U.S. 478, 492 (1991). The decision to file or not to file criminal charges falls within the category of acts for which prosecutors have absolute immunity. *Oliver v. Collins*, 904 F.2d 278, 280 (5th Cir. 1990); *Chrissy F. v. Mississippi Dept. Of Public Welfare*, 925 F.2d 844, 849 (5th Cir. 1991). Hence, Dixon is absolutely immune from Collins' claims that she failed to investigate and to initiate criminal prosecutions. Collins' claims against Dixon are dismissed with prejudice.

Claims against Truman Price

Collins sues Truman Price, then sheriff of Van Zandt County, on the basis that Collins informed Price about Parrish's unlawful search and seizure at Collins' home, and Price refused to perform any investigation or initiate criminal charges. The Fifth Circuit has held that a sheriff is immune from liability from claims that he failed to pursue a criminal investigation and to press criminal charges. *Oliver v. Collins*, 904 F.2d 278, 280 (5th Cir. 1990). Additionally, a government official is entitled to qualified immunity from damages claims unless his conduct violates a "clearly established federal statute or constitutional right of which a reasonable person would have known." *Hart v. O'Brien*, 137 F.3d 424, 441 (5th Cir. 1997). If a plaintiff properly

alleges the violation of a federal statute or constitutional right, the plaintiff must further show that the official's conduct was objectively unreasonable. *Salas v. Carpenter*, 980 F.2d 299, 310 (5th Cir. 1992). On the record before the court, plaintiff has not presented evidence which establishes that Price's acts were objectively unreasonable or violated Collins' rights. As discussed in the section of this order addressing the claims against Parrish, *infra*, the court finds that Parrish's conduct at Collins' home on July 17, 1995 was not objectively unreasonable. Price, therefore, was not objectively unreasonable for refusing to initiate criminal charges against Parrish. Thus, Price is also entitled to qualified immunity. Price's motion for summary judgment is granted and Collins' claims against Price are dismissed with prejudice.

Claims against Betty Davis

Betty Davis was the court coordinator for the 294th District Court. Collins alleges that Davis conspired with Judge Wallace and others to refuse to set plaintiff's motions for hearings, to schedule hearings and trial dates such that plaintiff would not receive timely notice of the settings, and to fail to respond to plaintiff's requests for a copy of the transcript of a September 21, 1995 hearing. Clerks of court enjoy absolute immunity from damages claims for all acts they are required to perform under the direction of a judge and for acts that are an integral part of the judicial process. Clerks enjoy qualified immunity from all other actions from damages. *Mylett v. Mullican*, 992 F.2d 1347, 1352 fn. 36 (5th Cir. 1993); *Tarter v. Hury*, 646 F.2d 1010, 1013 (5th Cir. 1981). In determining whether acts are judicial in nature, courts consider whether (1) the act complained of is a normal judicial function; (2) the acts occurred in the courtroom or appropriate adjunct spaces such as the judge's chambers; (3) the controversy centered around a case pending before the court; and (4) whether the acts arose directly out of a visit to the judge in his

official capacity. *Malina v. Gonzales*, 994 F.2d 1121, 1124 (5th Cir. 1993). Plaintiff characterizes functions such as setting motions for hearings, setting trial dates, and giving notice of such settings as ministerial or administrative. However, examination of the allegations against Davis in light of the above factors leads to the conclusion that Davis' acts were judicial acts. Davis is thus entitled to judicial immunity from all of Collins' claims.

Additionally, Davis is entitled to qualified immunity. A government official is entitled to qualified immunity from damages claims unless her conduct violates a "clearly established federal statute or constitutional right of which a reasonable person would have known." *Hart v. O'Brien*, 137 F.3d at 441. From the evidence and pleadings before the court, the court cannot find that Davis' acts were objectively unreasonable. Finally, Collins' allegations that Davis joined a conspiracy to destroy his business are nothing more than bald assertions and conjecture. Apart from his own assertions, Collins presents no facts from which it may be inferred that Davis joined a conspiracy to destroy Collins' business.⁴ *Russell v. Millsap*, 761 F.2d at 246. Davis' motion for summary judgment is granted as to all claims against her.

Claims against John Parrish

Collins' claims against Parrish stem from an alleged illegal search and seizure Parrish took part in at Collins' residence on July 17, 1995. The summary judgment record indicates that Collins filed a previous suit against Parrish arising from the same occurrence alleged in the present

⁴ From the pleadings and summary judgment record, it appears that simply on the basis that judges made rulings adverse to him and lawyers represented clients adverse to him, Collins has concluded that judges, lawyers, and various county officials joined a conspiracy to destroy his business. More troubling is that an attorney would sign on to a case that is based largely on mere assertion and conjecture. It is difficult for the court to fathom how an attorney would not understand that conclusory assertions and conjecture that someone "must have" joined a conspiracy, without more, are legally insufficient bases on which to file a complaint or to withstand summary judgment.

suit. The court takes judicial notice, pursuant to Fed. R. of Evid. 201, that cause no. 6:95-CV-669, styled Jerry Michael Collins v. John Parrish, constable Pct. 4 Van Zandt County, Texas, was filed in the United States District Court for Eastern District of Texas, Tyler division. The allegations made by Collins against Parrish in that suit are virtually identical to the allegations in the present suit. The court also takes judicial notice that the Eastern District suit was dismissed with prejudice by Judge Steger on December 26, 1995.

A subsequent suit is barred by the doctrine of res judicata if: (1) the parties are identical in both suits; (2) the prior judgment was rendered by a court of competent jurisdiction; (3) the prior judgment was final on the merits; and (4) the cases involve the same cause of action. *Travelers Ins. Co. v. St. Jude Hospital*, 37 F.3d 193, 195 (5th Cir. 1994). In both the Eastern District suit and the present suit, the parties were identical, judgment was rendered by a court of competent jurisdiction, and the prior judgment was final on the merits.⁵ To determine whether the same cause of action is involved,

The critical issue is not the relief requested or the theory asserted but whether the plaintiff bases the two actions on the same nucleus of operative facts. The rule is that res judicata bars all claims that were or could have been advanced in support of the cause of action on the occasion of its former adjudication, . . . not merely those that were adjudicated. *Id.* (internal quotations and citations omitted).

A review of the pleadings in both cases establishes that both suits against Parrish are based on the same nucleus of operative facts. In both suits, Collins complains of Parrish's involvement in the allegedly unlawful search and seizure of his residence on July 17, 1995. Finally, since both suits stem from the same alleged misconduct of Parrish, the claims made against Parrish in this suit

⁵ See *Schwarz v. Folloder*, 767 F.2d 125, 130 (5th Cir. 1985), "A dismissal with prejudice has the effect of a final adjudication on the merits"

could have been brought in the earlier suit. Hence, Collins' claims against Parrish in the present suit are barred by res judicata.

Additionally, the court concludes that Parrish is entitled to qualified immunity. A government official is entitled to qualified immunity from damages claims unless his conduct violates a "clearly established federal statute or constitutional right of which a reasonable person would have known." *Hart v. O'Brien*, 137 F.3d 424, 441 (5th Cir. 1997). If the plaintiff properly alleges the violation of a federal statute or constitutional right, he must further show that the official's conduct was objectively unreasonable. *Salas v. Carpenter*, 980 F.2d 299, 310 (5th Cir. 1992). On the record before the court, plaintiff has not presented evidence establishing that Parrish's acts were objectively unreasonable or violated Collins' rights. Parrish has established that after satisfying himself that Jenna Scott owned the property that was searched, he allowed Scott to go into the residence and remove items which she could show belonged to her. Plaintiff has not presented evidence, apart from his own assertions and conclusions, establishing that officer Parrish acted unreasonably or that he violated Collins' constitutional rights. Thus, Parrish is also entitled to qualified immunity. Parrish's motion for summary judgment is granted and Collins' claims against Parrish are dismissed.

Claims against Joyce Fugate

Collins maintains that Fugate, the Van Zandt County tax assessor-collector, violated his constitutional rights when she refused to give Collins registration information regarding Collins' van. Collins states he needed the information for a court hearing scheduled for the following day. However, in a prior suit Collins filed in Van Zandt state district court, Collins acknowledged that he obtained the information requested from Fugate from a regional office of the Texas

Department of Transportation and had it with him when he attended court on the following day. (Collins' Second Amended Petition, Cause No. 97-109, filed in the 294th District Court of Van Zandt County, pp. 59-60). Additionally, Collins admitted in his deposition that he obtained the information he needed in time for the court hearing. (Collins' deposition, p. 130, Exhibit A to Appendix to defendants Lawrence, Parrish, Price, Betty Davis, Joyce Fugate, Charles Van Cleef, and Robert Davis' motion for summary judgment). To have standing to bring a RICO claim under section 1964(c), a plaintiff must show (1) a violation of section 1962, (2) an injury to his business or property, and (3) that his injury was proximately caused by a RICO violation. *Khuran v. Innovative Health Care Systems, Inc.*, 130 F.3d 143, 147 (5th Cir. 1997). Collins has not shown any injury or harm caused by Fugate's alleged conduct. Instead, Collins admits he received the information at issue in time for the court hearing. Further, as noted above, Collins presents no evidence, apart from bare assertions and conjecture, that Fugate was involved in a conspiracy to destroy his business.

Collins' failure to show injury caused by Fugate's acts also defeats Collins' fraud claim against Fugate. An element of the common law tort of fraud is that the fraudulent conduct must have caused injury. *Oppenheimer v. Prudential Securities Inc.*, 94 F.3d 189, 194 (5th Cir. 1996). Fugate's motion for summary judgment is granted, and Collins' claims against Fugate are dismissed with prejudice.

Claims against Scott, Petersen, and Kimble

Defendants Jenna Louise Scott, Harry Tom Petersen, and Patricia Kimble move for dismissal of the claims against them on the grounds of res judicata. Specifically, those defendants allege that Collins previously sued them in the state district court of Van Zandt County, Texas,

and that the defendants were granted summary judgment as to Collins' claims. The court will judicially notice that Collins filed a suit, styled Collins v. Cluck, et al, cause no. 97-109, in the 294th Judicial District Court of Van Zandt County, Texas, and that on February 19, 1999, the state district judge granted summary judgment in favor of defendants Scott, Petersen, and Kimble. The state court pleadings filed by Collins establish that Scott, Petersen, and Kimble were all parties to the state suit, and that Collins was the plaintiff. In the state court suit, Collins alleged a conspiracy among Scott, Petersen, Kimble and other defendants aimed at destroying his business. This is the same claim Collins alleges in the present suit, and both suits involve the same nucleus of operative facts. The prior judgment was rendered by a court of competent jurisdiction, and was final on the merits. Further, the claims Collins now alleges could have been brought in the state court suit. Hence, Collins' claims against Scott, Petersen, and Kimble in the present suit are barred by res judicata, and they are hereby dismissed with prejudice. *Travelers Ins. Co. v. St. Jude Hospital*, 37 F.3d at 195.

Claims against Coye Conner, Jr.

Conner is a Tyler attorney who represented Collins for a brief time in Collins' divorce suit against Jenna Scott in Van Zandt County. Collins alleges that Connor violated his fiduciary duties to Collins by failing to enter an appearance for Collins in the divorce suit, failing to notify Collins of court hearings, failing to appear for Collins at a hearing, misinforming Collins, and failing to respond to inquiries and directions from Collins. Collins subsequently filed suit against Conner's law firm in the state district court of Smith County, Texas, in cause no. 97-2850-A. Ultimately, the law firm filed a motion for summary judgment which was granted by Judge Louis Gohmert on January 12, 1999. Conner was represented in the Smith County suit by Greg K. Winslett. In the

present suit, Collins sues Conner, Judge Gohmert and Winslett. Conner moves for summary judgment on the basis of res judicata. Collins did not respond to Conner's motion.

The Smith County judgment was rendered by a court of competent jurisdiction, was final on the merits, and involved the same set of operative facts as the present suit. Further, the claims now asserted by Collins against Conner could have been alleged in the Smith County suit. Thus, the only remaining issue is whether the same parties were involved in both suits. *Travelers ns. Co. v. St. Jude Hospital*, 37 F.3d at 195.

The Smith County suit named Conner's law firm as the party and did not name Conner individually. However, res judicata bars the subsequent claims against Conner if Conner was in privity with his law firm in the Smith County suit. *Scott v. Fort Bend County*, 870 F.2d 164, 167 (5th Cir. 1989). "Privity connotes those who are in law so connected with a party to the judgment as to have such an identity of interest that the party to the judgment represented the same legal right." *Id.* The claims against Conner's law firm in the Smith County suit were predicated on the same allegations of Conner's wrongdoing as are the claims in the present suit. That is, Collins seeks to hold Conner liable in the present suit on the basis of the same nucleus of operative facts that he sought to hold the law firm liable for in the Smith County suit. Thus, the law firm in the Smith County suit represented the same legal right that Conner represents in the present suit. The court finds that Conner is in privity with his law firm in the Smith County suit, thus satisfying the "same parties" element of res judicata. Moreover, as the *Fort Bend County* court noted, even if the parties are not identical, Collins' claims against Conner are barred by res judicata because Collins is seeking to litigate in the present suit issues that were previously litigated in the state court suit, the alleged wrongdoing by Conner. Collins' claims against Conner are barred by res

judicata, and Conner's motion for summary judgment is granted.

Claims against Cluck, Sipes, McGregor, Currin, Robert Davis, Van Cleef, and Winslett.

Roxie Cluck is an attorney who represented Jenna Scott in the divorce proceeding in Van Zandt County district court. Sipes and McGregor are El Paso, Texas, attorneys who represented Scott in the divorce proceeding in El Paso. Sipes also represented Jenna Scott, Patricia Kimble and Harry Tom Petersen in a subsequent suit filed by Collins in Van Zandt County state district court. Robert Currin is an attorney who represented plaintiff in the Van Zandt divorce case. Currin was ultimately fired by Collins who then hired Coye Conner to represent him. Robert Davis and Charles Van Cleef are attorneys who represented Van Zandt County and several Van Zandt County officials after Collins filed suit against the county, several county officials, the State Bar of Texas, and several attorneys in Van Zandt County state district court.⁶ Greg K. Winslett is an attorney who represented Coye Conner's law firm in the Smith County suit filed by Collins. Collins brings RICO, RICO conspiracy, and fraud claims against these defendants. Collins also alleges a breach of fiduciary duty claim against Cluck and Currin.

In order to state a RICO claim under 18 U.S.C. § 1962, plaintiff must allege (1) a person who engages in, (2) a pattern of racketeering activity, (3) connected to the acquisition, establishment conduct, or control of an enterprise. *In re Burzynski*, 989 F.2d 733, 741 (5th Cir. (1993)). The second element of a RICO claim, the pattern of racketeering activity, is made up of two components: (i) predicate acts, or the requisite racketeering activity, and (ii) a pattern of such acts. *Id.* at 742; *Tel-Phonic Services, Inc. v. TBS Int'l, Inc.*, 975 F.2d 1134, 1140 (5th Cir.

⁶ This is the same suit in which Sipes represented Scott, Kimble, and Petersen.

1992). Plaintiff identifies several acts of the defendants which he alleges constitute mail fraud.⁷ However, allegations of predicate acts does not end the inquiry. Plaintiff still needs to show a “pattern” of such acts, which requires a showing both that the predicate acts are related to each other and that they either constitute or threaten long-term criminal activity. *Burzynski*, 989 F.2d at 742, citing *H.J.Inc v. Northwestern Bell Tel. Co.*, 492 U.S. 229,239 (1989). In other words, for plaintiff to meet the pattern requirement, he must show both that the predicate acts are “related” to each other and that they have “continuity.” *Id.*

Predicate acts are related if they “have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.” *H.J. Inc.*, 492 U.S. at 240. To satisfy the “continuity” requirement, plaintiff must show that the predicate acts amount to or threaten continuing racketeering activity. *H.J. Inc.*, 492 U.S. at 239. “This may be shown by either a closed period of repeated conduct, or an open-ended period of conduct that by its nature projects into the future with a threat of repetition. A closed period of conduct may be demonstrated by proving a series of related predicates extending over a substantial period of time. An open period of conduct involves the establishment of a ‘threat of continued racketeering activity.’” *Word of Faith World Outreach Center Church, Inc. v. Sawyer*, 90 F.3d 118, 122 (5th Cir.), *cert. denied*, 520 U.S. 1117 (1997) (internal quotations and citations omitted). Plaintiff fails to establish the continuing nature of this alleged enterprise either in his pleadings or by summary judgment evidence. Indeed, apart from

⁷ The court is dubious that the mail fraud acts alleged by plaintiff in this case actually constitute mail fraud. Plaintiff asserts that the mailing of allegedly false affidavits in connection with a motion for summary judgment constitutes mail fraud. Plaintiff also argues that the mailing of a jury trial notice by Judge Wallace’s court coordinator constitutes mail fraud. However, for purposes of the discussion, the court assumes plaintiff has properly alleged predicate acts as required by RICO.

conclusory assertions, plaintiff presents no summary judgment evidence that establishes a “specific threat of repetition” or suggests that the predicate acts are part of the defendants’ “regular way of doing business.” *Tel-Phonic Services*, 975 F.2d at 1140, quoting *H.J. Inc.*, 492 U.S. at 241. Plaintiff similarly fails to establish that defendants “operate as part of a long-term association that exists for criminal purposes.” *Id.*

As the Fifth Circuit has explained, short-term criminal conduct is not the concern of RICO. *Calcasieu Marine Nat'l Bank v. Grant*, 943 F.2d 1453, 1464 (5th Cir. 1991). Here, plaintiff suggests no “series” of racketeering acts with the level of continuity required for a RICO violation.⁸ The Fifth Circuit has repeatedly stated that “where the alleged predicate acts are part and parcel of a single, otherwise lawful transaction, a pattern of racketeering activity has not been shown.” *Word of Faith World Outreach Center Church*, 90 F.3d at 123 (internal citations and quotations omitted). Therefore, the court finds that plaintiff has failed to show a “pattern of racketeering activity.” Summary judgment is granted for defendants Cluck, Sipes, McGregor, Currin, Robert Davis, Van Cleef, and Winslett as to the RICO and RICO conspiracy claims.


Collins also alleges a breach of fiduciary duties claim against Cluck and Currin. Neither Cluck nor Currin have moved for summary judgment on those claims. There also remain fraud claims against Cluck, Sipes, McGregor, Currin, Robert Davis, Van Cleef and Winslett. Because the federal RICO claims are dismissed, the court exercises its discretion and declines to hear those

⁸ Plaintiff has simply taken three separate lawsuits which he filed, that were decided adversely to him, and, without supporting evidence, sought to weave those into a pattern of racketeering activity. Certainly, there is a question as to the “relatedness” of the activities in the separate lawsuits. While plaintiff alleges that the attorneys and judges in each lawsuit joined in the conspiracy to destroy his business, there is no evidence of this apart from plaintiff’s assertions and conjecture. Additionally, the summary judgment evidence does not establish that the defendants engaged in “a series of related predicates extending over a substantial period of time.” Thus, a closed period of repeated conduct is not shown. Nor does the evidence demonstrate the “threat of continued racketeering activity” by the defendants. Hence, plaintiff fails to establish an open period of conduct in violation of RICO.

state law claims. 28 U.S.C. § 1367(c)(3); *Parker & Parsley Petroleum v. Dresser Industries*, 972 F.2d 580, 585 (5th Cir. 1992). The breach of fiduciary duties claims against Cluck and Currin and the state law fraud claims against Cluck, Sipes, McGregor, Currin, Robert Davis, Van Cleef and Winslett are dismissed without prejudice. All of the claims, both RICO and state law, against Judge Wallace, Judge Gohmert, Dixon, Price, Betty Davis, Parrish, Fugate, Scott, Petersen, Kimble and Conner are dismissed with prejudice.

So Ordered.

Signed this 24 day of March 2000.



Jorge A. Solis
United States District Judge

cy

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAR 10 2000
NANCY DOHERTY, CLERK
BY Deputy *djd*

JERRY MICHAEL COLLINS,

Plaintiff,

vs.

JOHN PARRISH, ET AL.,

Defendants.

§
§
§
§
§
§
§
§
§

NO. 3:99-CV-0641-P

ENTERED ON DOCKET
MAR 13 2000
U.S. DISTRICT CLERK'S OFFICE

FINAL JUDGMENT

Pursuant to the Court's Order filed March 7, 2000, the Court issues judgment as follows:

It is **ORDERED ADJUDGED** and **DECREED** that,

1. Plaintiff Jerry Michael Collins shall take nothing from all of his RICO and state law claims against Judge Tommy W. Wallace, Judge Louis B. Gohmert, Judge Richard Lawrence, Judge James B. Zimmerman, Leslie P. Dixon, Truman Price, Betty Davis, John Parrish, Joyce Fugate, Jenna L. Scott, Harry Tom Petersen, Patricia Kimble, and Coye Conner, Jr.
2. It is further ordered that plaintiff shall take nothing from his RICO and RICO conspiracy claims against defendants Roxie Cluck, Doris Sipes, Malcolm McGregor, Richard Currin, Robert Davis, Charles Van Cleef, and Greg Winslett.
3. It is further ordered that plaintiff's breach of fiduciary duty claims against Roxie Cluck and Richard Currin and the state law fraud claims against Roxie Cluck, Doris Sipes, Malcolm McGregor, Richard Currin, Robert Davis, Charles Van Cleef, and Greg Winslett are dismissed without prejudice.
4. Accordingly, costs incurred by the defendants, shall be assessed against plaintiff.

FINAL JUDGMENT

RECORD EXCERPT
4


96

00647

4. Accordingly, costs incurred by the defendants, shall be assessed against plaintiff.

IT IS SO ORDERED.

Signed this 9th day of March, 2000 at Dallas, Texas.



JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS

FINAL JUDGMENT

00648

ORIGINAL

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAY - 4 2000
NANCY COHERTY, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JERRY MICHAEL COLLINS,

Plaintiff,

v.

RICHARD LAWRENCE, et al.,

Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO.
3:99-CV-0641-P

ENTERED ON DOCKET
MAY - 4 2000
U.S. DISTRICT COURT CLERK'S OFFICE

ORDER

To date, Defendant Judge Gohmert has not replied to Plaintiff's Memorandum and Opposition to Judge Gohmert's Motion for Sanctions, which was filed on March 27, 2000. Because it is unclear whether Judge Gohmert was served with a copy of Plaintiff's papers, the Court grants Judge Gohmert until May 22, 2000 to file a reply, should he decide to do so. If no reply is filed by that date, the Court will rule on the Motion for Sanctions without Judge Gohmert's reply.

So Ordered.

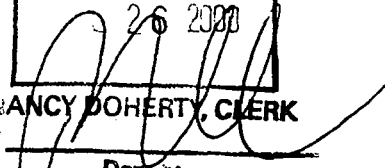
Signed this 4th day of May, 2000.

Jorge A. Solis
JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE

99

RECEIVED EXCERPT
5

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
26 2000
NANCY DOHERTY, CLERK
BY 
Deputy

JERRY MICHAEL COLLINS,

Plaintiff,

v.

RICHARD LAWRENCE, et al.,

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO.
3:99-CV-0641-P

ENTERED ON DOCKET
JUL 27 2000
U.S. DISTRICT CLERK'S OFFICE

ORDER

Now before the Court is Defendant Judge Louis B. Gohmert, Jr.'s Motion for Sanctions Under Rule 11(b), filed May 3, 1999 (the "Sanctions Motion"). Pursuant to this Court's March 7, 2000 Order disposing of virtually all of Plaintiff's claims in favor of the defendants, Plaintiff filed responsive papers to the Sanctions Motion on March 27, 2000. *See* 3/7/00 Order at 6, fn. 3. Judge Gohmert filed his reply on May 16, 2000.

For the following reasons, the Court GRANTS the Sanctions Motion but declines to make a specific award under Rule 11 until Judge Gohmert and Jerry Michael Collins and/or G. David Westfall submit proof and argument on the issues discussed herein. Furthermore, in addition to whatever sanctions are ultimately rendered under Rule 11, Collins and Westfall are hereby sanctioned \$2,500 each pursuant to the Court's inherent power.

ORDER — 1
99-0641



RECORD EXCERPT
6

00664

I. RULE 11 SANCTIONS

By the present motion, Judge Gohmert seeks to sanction plaintiff Jerry Michael Collins and Collins' attorney, G. David Westfall, pursuant to Federal Rule of Civil Procedure 11. Rule 11(b) provides:

By presenting [a pleading] to the court ... an attorney or unrepresented party is certifying that to the best of that person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of a new law; (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

The central issues in determining whether to impose sanctions against Collins or Westfall¹ are whether they abused the legal process and, if so, what sanction would be appropriate. See *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 396 (1990). The Court addresses each issue in turn.

A. Did Collins and/or Westfall Abuse the Legal Process?

Whether Plaintiff's lawsuit against Judge Gohmert constitutes sanctionable harassment under Rule 11 depends upon the objectively ascertainable circumstances rather than subjective intent. *Sheets v. Yamaha Motors Corp.*, 891 F.2d 533, 538 (5th Cir. 1990). If a reasonably clear

¹Although Collins' initial state-court lawsuit was brought pro se, he subsequently retained Westfall as counsel and continued to prosecute the case against Judge Gohmert in federal court. The Fifth Circuit has made it clear that Rule 11 applies both to pro se litigants as well as those represented by counsel. *Mendoza v. Lynaugh*, 989 F.2d 191, 195-96 (5th Cir. 1993).

legal justification can be shown for the filing of the lawsuit, no improper purpose may be found and sanctions are inappropriate. *Id.* However, sanctions are warranted if the lawsuit is found to have inadequate legal and factual support and an improper purpose. *See* Fed. R. Civ. P. 11(b). Furthermore, a litigant or attorney's subjective good faith is not enough to avoid sanctions if the initiation of the lawsuit against Judge Gohmert was objectively unreasonable. *United States v. Alexander*, 981 F.2d 250, 252 (5th Cir. 1993) ("Rule 11 demands that the actions of the attorney be objectively, not just subjectively, reasonable under the circumstances").

In this lawsuit, Collins maintained that his business was destroyed when "some El Paso lawyers conspired with two women from El Paso, who conspired with at least one east Texas lawyers [sic], who conspired with Van Zandt County law enforcement officers, the 294th district court coordinator, district judges, the county tax collector, and every lawyers [sic] Collins hired to represent him or attempted to hire to represent him."² (First Amended Compl. at 9-10). The only claim against Judge Gohmert arose from Judge Gohmert's granting a motion for summary judgment and disposing of Collins' state-court action against his former attorney. In other words, the Complaint made no specific allegation against Judge Gohmert except to say that he was involved in a far-reaching RICO conspiracy against Collins.

As discussed more fully in this Court's March 7, 2000 Order, Collins' conclusory claims against Judge Gohmert were legally untenable pursuant to the doctrine of absolute judicial immunity, and were therefore dismissed in their entirety. *See* 3/7/00 Order at 4-6. There was no reason to bring such claims, let alone continue to prosecute them over a period of years, save that

²The present action is at least the fourth suit filed by Collins stemming from the alleged conspiracy. *See* 3/7/00 Order at 2.

of harassment. The record in this case plainly demonstrates that Collins' RICO conspiracy claims against Judge Gohmert are utterly without arguable factual or legal basis and were filed maliciously and solely for the purpose of harassing, annoying and burdening Judge Gohmert.

As one court wrote, "the filing of frivolous civil lawsuits against judicial officers deserves a special place in the cornucopia of evils plaguing our judicial system because such lawsuits are not only an affront to the dignity of the courts but also an assault upon the integrity of our judicial system." *Hicks v. Bexar County, Texas*, 973 F. Supp. 653, 688 (W.D. Tex. 1997), *aff'd*, 137 F.2d 1352 (5th Cir. 1998), citing *Bogney v. Jones*, 904 F.2d 272, 274 (5th Cir. 1990) (upholding imposition of Rule 11 sanctions where plaintiff asserted civil claims against state district judge). So it is even more significant that the frivolous claims against Judge Gohmert continued to be asserted by Collins *after* G. David Westfall was retained. As reprehensible as Collins' conduct against Judge Gohmert is, he was acting pro se during many of the matters.³ But that an attorney such as Westfall could file a complaint against a state-court judge based upon the circumstances in this record leaves the Court nothing short of bewildered.

Thus, after concluding that Collins' claims against Judge Gohmert lacked legal and/or factual support and were brought for an improper purpose, the Court finds that both Collins and Westfall abused the legal process by instigating and then pursuing the lawsuit against Judge Gohmert. The Court concludes without reservation that the claims against Judge Gohmert warrant the imposition of sanctions under Rule 11.

³But again, just because it may be more understandable for an unrepresented party to pursue frivolous claims, Collins' pro se status should not, and will not, shield him from sanctions in this case. *Mendoza*, 989 F.2d at 195-96.

B. What Rule 11 Sanctions are Appropriate?

Having found a Rule 11 violation, the Court turns to the issue of appropriate sanctions. The Fifth Circuit instructs that the least severe sanction adequate to serve Rule 11's purposes should be imposed. *See Mendoza v. Lynaugh*, 989 F.2d 191, 196 (5th Cir. 1993); *Thomas v. Capital Security Srvs., Inc.*, 836 F.2d 866, 877 (5th Cir. 1988); *see also* Fed. R. Civ. P. 11(c)(2). Furthermore, the amount of Rule 11 sanctions must be limited to the expenses actually and directly caused by the filing of the pleading found to violate Rule 11. *See Jennings v. Joshua I.S.D.*, 948 F.2d 194, 199 (5th Cir. 1991), *cert. denied*, 504 U.S. 956 (1992).

Although Judge Gohmert has offered some evidence of the expenses incurred while defending against Collins' frivolous claims,⁴ the evidence is incomplete and, as yet, Collins has not been afforded the opportunity to challenge it. So, while the Court is eager to dispose of this matter, the parties have not yet presented sufficient evidence upon which to base an appropriate sanction.

Accordingly, the Court requests that **within twenty (20) days from the date of entry of this Order**, Judge Gohmert file and serve upon Plaintiff a properly authenticated affidavit or other proper summary judgment evidence establishing the amount of fees and costs actually incurred by Judge Gohmert and/or the State of Texas in defending against Collins' lawsuit.⁵ Then, **within seven (7) days of being served with Judge Gohmert's submission**, Collins and/or Westfall shall file and

⁴In his reply brief, filed May 16, 2000, Judge Gohmert states: "This Defendant has utilized a visiting judge on two different days to allow him an opportunity to deal with this suit at a cost to the State of Texas of \$327 per day. The rest of the significant burden required by this frivolous suit has been borne by the undersigned including one trip to Dallas personally to insure that filing requirements and rules were timely and appropriately met." Reply at ¶ 5.

⁵If Judge Gohmert requires additional time to assemble his evidence, he should notify this Court in writing.

serve upon Judge Gohmert any written response which they wish to make to each such statement and any arguments establishing why such fees and costs should not be imposed upon them pursuant to Rule 11. Should Plaintiff fail to file a response within the proscribed time, the Court will award sanctions without Plaintiff's input.

II. SANCTIONS UNDER THE COURT'S INHERENT POWER

Separate and apart from Rule 11, a court may use its inherent power to sanction a party who acts in bad faith, vexatiously, wantonly or for oppressive reasons. *Chambers v. NASCO*, 501 U.S. 32, 45-46 (1991); *see also Kipps v. Caillier*, 197 F.3d 765, 770 (5th Cir. 1999) (court must make specific finding that party acted in bad faith in order to impose sanctions under its inherent power). The purpose of this power is to enable the Court to ensure its own proper functioning. *Chambers*, 501 U.S. at 43 ("It has long been understood that certain implied powers must necessarily result to our Courts of justice from the nature of their institutions...because they are necessary to the exercise of all others."); *Conner v. Travis County*, 209 F.3d 794, 799 (5th Cir. 2000). The invocation of this sanctioning power should be the exception rather than the rule. *Kipps*, 197 F.3d at 770.

This case, to which the Court has devoted more time and energy than it cares to remember, falls squarely within the "exceptional" category. As discussed in more detail above, the claims first initiated by Collins and later vigorously pursued by Westfall lacked any arguable legal and/or factual support, were brought to harass Judge Gohmert and other defendants, and generally constituted a flagrant abuse of the legal process. At the bottom of this now almost five-year long fiasco, Collins initiated and Westfall subsequently ratified (by filing a complaint in federal court that violated virtually

every precept of Rule 11) wholly groundless civil rights claims against two state court judges (including Judge Gohmert), the sheriff, constable, district attorney and tax assessor-collector of Van Zandt County, and several attorneys. In fact, upon losing a law suit, it is Collins' practice simply to file a new one, adding as parties most of the participants in the old suit (such as Judge Gohmert) who are then alleged, without supporting evidence, to be part of the RICO conspiracy against him. This practice is, needless to say, intolerable.

Given the utter lack of evidence tending to demonstrate that Judge Gohmert participated in a RICO conspiracy, the Court cannot avoid the conclusion that Collins and Westfall each acted in bad faith, vexatiously, wantonly *and* for oppressive reasons. *Kipps*, 197 F.3d at 770. Consequently, it is appropriate to impose sanctions pursuant to the Court's inherent power to preserve the Court's authority, to punish and to deter future misconduct. *See, e.g., Chambers*, 501 U.S. at 45-46; *Kipps*, 197 F.3d at 770.


Any sanctions levied under a court's inherent power must be the least severe sanctions adequate to achieve the end of preserving the court's authority and punishing the misconduct. *Scaife v. Associated Air Center, Inc.*, 100 F.3d 406, 411 (5th Cir. 1996). In light of the circumstances of this case, Collins and Westfall are hereby sanctioned in the amount of \$2,500 each; any greater sanction would be excessive while a lesser sanction would fail to serve the Court's purposes.

Therefore, within twenty (20) days from the date of entry of this Order, both Jerry Michael Collins and G. David Westfall are each directed to pay \$2,500 to the Clerk of the District Court of the Northern District of Texas. Furthermore, the parties are directed to submit

Rule 11 evidence and arguments in the manner set forth at pages 6-7 of this Order.

So Ordered.

Signed this 26th day of July, 2000.



JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE

ORDER — 8
99-0641

00671

cyf

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
SEP 8 2000
CLERK, U.S. DISTRICT COURT
By _____ Deputy

JERRY MICHAEL COLLINS,
Plaintiff,

v.

RICHARD LAWRENCE, ET AL.,
Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO.
3:99-CV-0641-P

ENTERED ON DOCKET
SEP - 8 2000
U.S. DISTRICT CLERK'S OFFICE

ORDER

Now before the Court is Defendant Judge Louis B. Gohmert, Jr.'s Affidavit, filed August 17, 2000, in response to this Court's Order for evidence and arguments in support of Defendant's Motion for Sanctions Under Rule 11(b).

Because the Affidavit does not reflect that Plaintiff was served with a copy, the Clerk of the Court is hereby directed to serve a copy of Defendant's Affidavit upon Plaintiff Jerry Michael Collins and attorney G. David Westfall, and Plaintiff and Westfall have until September 26, 2000 to submit a reply, if any, to such Affidavit.

So Ordered.

Signed this 8th day of September, 2000.

Jorge A. Solis

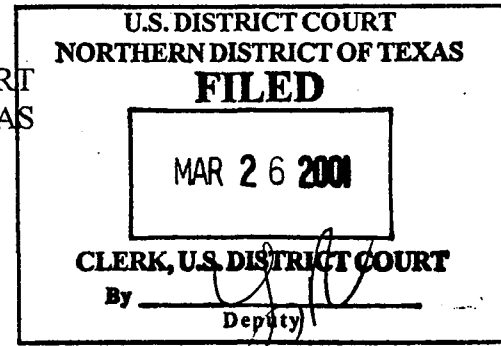
JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE

108

RECORD EXCEPT
7

ef

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



JERRY MICHAEL COLLINS,

Plaintiff,

v.

RICHARD LAWRENCE, ET AL.,

Defendants.

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO.
3:99-CV-0641-P



ORDER

Now before the Court is Defendant Judge Louis B. Gohmert, Jr.'s Affidavit ("Affidavit"), filed August 17, 2000, in response to this Court's Order for evidence and arguments in support of Defendant's Motion for Sanctions Under Rule 11(b). Plaintiff filed responsive papers to Defendant Gohmert's Affidavit on August 25, 2000, and September 15, 2000. In addition, Plaintiff filed a Motion for Immunity from Sanctions, filed August 29, 2000, and Motion for Leave of Court to File Suit, filed October 23, 2000. For the following reasons, Defendant Gohmert's Motion for Sanctions Under Rule 11(b) is GRANTED. Furthermore, Plaintiff's Motion for Immunity from Sanctions and Motion for Leave of Court to File Suit are DENIED.

* * *

Defendant Judge Louis B. Gohmert, Jr. filed a Motion for Sanctions under Rule 11(b) on May 3, 1999. To consider the motion for Rule 11 sanctions, this Court issued an Order on July 26, 2000, directing the parties to submit Rule 11 evidence and arguments regarding the amount

ORDER — 1
99-0641

117

RECORDED EXCEPT # 8

00828

of fees and costs incurred by Judge Gohmert and/or the State of Texas in defending against Collins' frivolous lawsuit.¹

On August 17, 2000, Judge Gohmert submitted a properly authenticated affidavit outlining the expenses he incurred, as well as the expenses incurred by the State of Texas. In response, Collins does not dispute the propriety of such expenses; rather, he continues to argue the merits of his claims, which have already been dismissed by this Court.

The amount of Rule 11 sanctions must be limited to the expenses actually and directly caused by the filing of the pleading found to violate Rule 11. *See Jennings v. Joshua I.S.D.*, 948 F.2d 194, 199 (5th Cir. 1991), cert. denied, 504 U.S. 956 (1992). Having reviewed the parties' arguments and evidence, the Court finds that Judge Gohmert's expenses as set forth in his August 17 Affidavit were reasonable and necessary to properly defend against Collins' lawsuit and were the direct and proximate result of that lawsuit. As such, in addition to the \$2,500 already sanctioned against both Collins and Westfall, **the Court hereby directs both Jerry Michael Collins and his attorney G. David Westfall to each pay \$54.30 to Judge Louis B. Gohmert, Jr. within twenty (20) days from the date of this Order.** In addition, **within twenty (20) days from the date of this Order, both Collins and Westfall are each directed to pay \$189.97 to the Comptroller for the State of Texas.** Both payments should be remitted to Judge Gohmert.²

¹ For a more detailed discussion of Collins' frivolous claims, see this Court's July 26, 2000 Order.

² Judge Gohmert shall forward to the appropriate office any payments owing to the Comptroller for the State of Texas.

The Court next addresses Collins' Motion for Immunity from Sanctions and Motion for Leave of Court to File Suit. Plaintiff moves this Court to allow him to file a federal action "against all of those who participated in the scheme to illegally invade his home on January 31, 2000 and those who participated in the cover-up of all illicit acts related to it." *See* Plf. Motion for Leave at 6. Such an action stems from the same alleged conspiracy made the basis of Collins' previous federal claims, all of which were dismissed as meritless and harassing.³ *See* Plf. First Am. Cmplt.; this Court's March 7, 2000 Order and July 26, 2000 Order. To the Court's dismay, it appears as though Plaintiff intends to continue the filing of baseless claims, thereby further straining the resources of the judicial system. Because Plaintiff has not demonstrated any legal or factual support as to why he should be allowed to file a lawsuit that mirrors the one previously dismissed by this Court, Plaintiff's Motion for Leave of Court to File Suit is denied.

³ Plaintiff's Complaint in the case previously dismissed by this Court provides as follows:

The Destroy Collins Ring

The pattern of the Destroy Collins Ring generally fits the following, with minor exceptions.

- a. The Law Enforcement Provider Defendants, their Agents, and Other Alleged Wrongdoers knowingly and willfully participated in the conspiracy to break-into Collins home, then they conspired to rummage through Collins' personal and private papers. Then, they knowingly and willfully participated in the actual break-in of Collins home. Then, they knowingly and willfully acted on their conspiracy by stealing hundreds of Collins' personal and private papers. Then, they knowingly and willfully participated in the conspiracy to prepare fraudulent documents. Then, they knowingly and willfully participated in the filing of those fraudulent documents and even more fraudulent documents with the court.

See Plf. Cmplt. at 15.

In addition, because Plaintiff has demonstrated his intent to continue filing claims on this matter in federal court, the Court finds no good cause exists to grant Plaintiff's request for immunity from the actions he has taken and seems intent to continue to take. Accordingly, Plaintiff's Motion for Immunity from Sanctions is denied.

CONCLUSION

Upon thorough review of both parties' arguments, the evidence on file, and applicable law, the Court finds that Defendant Judge Louis B. Gohmert, Jr.'s Motion for Sanctions under Rule 11(b) is GRANTED. Furthermore, Plaintiff Jerry Michael Collins' Motion for Immunity from Sanctions and Motion for Leave of Court to File Suit are hereby DENIED.

So Ordered.

Signed this 26th day of March, 2001.



JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE

My
ORIGINAL

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAY - 3 1999
NANCY DOHERTY, CLERK
BY _____ Deputy

Jerry Michael Collins

vs.

Richard Lawrence, et al.

Civil Action Number:

399CVO641-P

**MOTION TO DISMISS under Rule 12(b)(6), MOTION TO ABATE DISCOVERY,
and in the alternative, ORIGINAL ANSWER OF
JUDGE LOUIS B. GOHMERT, JR.**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Louis B. Gohmert, Jr., Defendant (and since the only prior contact this Defendant has had with Plaintiff has been in Defendant's official capacity as a state district judge, Defendant is hereinafter referred to as "Judge Gohmert") in the above-styled and numbered civil cause, and would respectfully show the Court the following:

MOTION TO DISMISS

Failure to State a Cause of Action

1. Plaintiff fails to state a cause of action upon which relief can be granted. Plaintiff begins his errors against this Defendant by misspelling his name and then gets more problematic. The only direct allegation made against Judge Gohmert is that he "knowingly and willfully aided in the commission of two or more alleged predicate offenses that constitute the alleged pattern of racketeering activity." That is it. The only contact this defendant judge is aware of having with the Plaintiff came through a lawsuit filed in Smith County, Texas, in Cause #97-2850-A, styled "Jerry Michael Collins vs. Conner, Gillen, et al" that was pending in this Defendant's Court. Since the hearing on Defendant's Motion for Summary Judgement is the only direct contact Judge Gohmert had with Plaintiff, a certified copy of the transcript of the hearing is attached to Judge Gohmert's Motion for Sanctions filed contemporaneously herewith, as is the transcript of the hearing conducted by Judge Pat McDowell on December 18, 1999, on Plaintiff's Motion to recuse in that case.

2. Judge Gohmert spent time during the hearing on December 4, 1998, trying to help the Plaintiff understand the law and the requirements or burden on the plaintiff to avoid summary judgement being granted for the defendant in that case. Judge Gohmert tried to explain to the Plaintiff the changes in the Texas Deceptive Trade Practices Act that occurred in 1995, as well as attempting to draw from the Plaintiff any information regarding evidence on the required elements that would allow him to get to a jury. However, Judge Gohmert did take issue with the Plaintiff's

RECORD EXCERPT
9

31

00009

statement in his rambling pleading in that case wherein Plaintiff stated, "I know the outcome of my litigation against lawyers. I finally understand that *the judges in my litigation* will never allow me to present the truth about these lawyers to a jury." (Transcript of December 4, 1999, Summary Judgement hearing @ p.34)

3. Unfortunately, Plaintiff could not even remember what his allegations in the pleading were as he said in that hearing, "Perhaps I need to read that – what that's about. I hope I didn't just jump out of the clear blue and mention that." To which Judge Gohmert replied, " Well, actually, that kind of looks like what it is. That you were rolling along responding, and then you back-tracked and went into the fact..." (December 4, 1999 transcript @ p.37) Judge Gohmert went on to touch on other tragic matters the Plaintiff alleged had occurred in his life over the last 30- 40 years and stated, "So that all looks irrelevant in this case. So my point on that is, unless it's relevant in this case, *even though you have my personal sympathy – and I can't think of anything worse than what you have experienced in that regard*, that won't have anything to do with my ruling in this case." (Transcript of December 4, 1999, Summary Judgement hearing @ p.38-39)

4. This Defendant really does not wish to bore the Court with minutia, but feels that this Court does need to get the gist of the dealing that the defendant court had with this Plaintiff. Judge Gohmert's comments in the Summary Judgement hearing apparently spurred the Plaintiff to file a motion to recuse Judge Gohmert from ruling on the motion for summary judgement because the court was allegedly prejudiced against the Plaintiff. That led to the above referenced hearing conducted by the presiding regional Judge Pat McDowell through which Judge McDowell found no basis in law or in fact to recuse Judge Gohmert from the case. In the hearing on Plaintiff's Motion to Recuse Judge Gohmert in that case, Plaintiff repeatedly misrepresented Judge Gohmert's remarks and questions; however, the 7th District Court for the State of Texas is a "court of record" which record, not Plaintiff's misrepresentations, formed the basis for Judge McDowell's ruling. As Judge McDowell stated to Plaintiff, "Candidly, he appeared to be trying to help you a little bit along the way to bring some tough stuff out, that I would have – if I'd been a lawyer on the other side, I would have been bothered by some, except that's Judge Gohmert. I think he wants to make sure – or try to make sure that both sides do get a fair hearing. That's my take..." (Transcript of December 18, 1999, Recusal hearing @ p.24) Why Judge McDowell is not now a defendant in this new federal case as a co-conspirator because of such ruling, is a mystery, though to include him too would have been another grievous wrong. A transcript of that hearing is attached for this Court's use.

5. Plaintiff said at the end of the hearing on December 4, 1998, before Judge Gohmert that he would not like it if the court ruled against him, but he would accept it, "... and would file an appeal, and see if I could get an appeals court to let me. That's all I would know to do, unless you've got – unless there's other – and I appreciate your help." At least at that point, the Plaintiff had it right. However, after thinking about it further, he decided an appeal was not the route to take. No. He would file a lawsuit in Dallas federal court, gratuitously include Judge Gohmert's name and cause as much inconvenience and expense as possible. That, he has done.

6. Through it all, Judge Gohmert has **absolute immunity** for the only dealings he has had involving this Plaintiff and the Plaintiff has given not even a hint of any facts that would support

a suit against this Defendant. If the Plaintiff ever were to get around to alleging any facts on which his inclusion of Judge Gohmert in his suit were based, it could only be because Judge Gohmert granted a summary judgement against the Plaintiff as he believed, and still does, that the law required him to do. This Defendant believes further that had Plaintiff chosen the appropriate route to test Judge Gohmert's ruling through **appeal**, the appellate courts would have advised him likewise. Of course, that would have subjected those appellate judges to being named in this suit also, so, perhaps, it is just as well that he did not appeal.

7. Pleading further, Plaintiff, though acting pro se, obviously has access to appropriate legal resources, yet even with such access and knowledge, he chose to sue this Defendant who has *judicial immunity* for any act or omission Plaintiff might allege, although no act or omission is actually alleged against this defendant. Accordingly, plaintiff is making an obvious effort to sue and harass the Defendant and waste court time, personnel time, and state and county resources as a matter of revenge because of an adverse ruling by this Defendant as a district judge in and for the state of Texas. Through Plaintiff's allegations, or lack thereof, he **fails to state a claim upon which relief can be granted**, and, accordingly, his cause against this Defendant should be dismissed with prejudice and with sanctions.

MOTION TO TRANSFER VENUE

8. Judge Gohmert is a resident of Smith County, Texas, is a state district judge whose district encompasses only Smith County, and whose only exposure to this Plaintiff occurred in Smith County, Texas, which county lies deep in the heart of the federal Eastern District of Texas. As such, for the convenience of the parties, and because any acts or omissions of which Plaintiff could conceivably complain against this Defendant occurred in the Eastern District of Texas. This cause should, therefore, under 28 USC Section 1404, be dismissed; or in the alternative, transferred to the United States District Court sitting in and for the Eastern District of Texas, Tyler Division.

IN THE ALTERNATIVE, IF SUCH BE NECESSARY, ORIGINAL ANSWER

General Denial

9. Defendant hereby denies all and singular the allegations of the Plaintiff and further takes great umbrage at Plaintiff's abuse of a respectable judicial system to harass officials attempting to do their jobs in their official capacity.

00071

WHEREFORE, PREMISES CONSIDERED, Louis B. Gohmert, Jr. respectfully prays that this honorable Court dismiss Plaintiff's cause of action and sanction him for such a frivolous and baseless lawsuit and that Plaintiff go forth without day, or, in the alternative, transfer this cause to the Eastern District of Texas, Tyler Division, but, in any event, abate discovery until a ruling can be obtained on Defendant's motions herein.

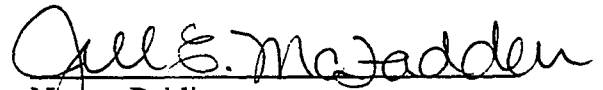
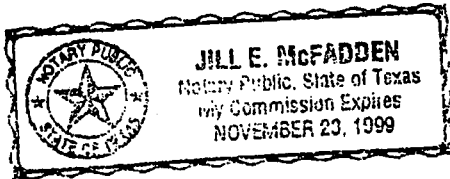
Respectfully submitted,



Louis B. Gohmert, Jr.
Judge, 7th District Court
Smith County Courthouse
Tyler, Texas 75702
Pro se Defendant (903/535-0625)


Oath

On this the 3rd day of May, 1999, appeared before me the aforesaid Louis B. Gohmert, Jr. and swore that to the best of his knowledge and belief, the statements contained therein are true and correct.


Notary Public

Certificate of Service

A copy of the above pleading is being sent by U.S. Mail to Plaintiff and to other Defendants attorney at the address provided in their pleading on this the 3rd day of May, 1999.


Louis B. Gohmert, Jr.

00072

ORIGINAL

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NORTHERN DISTRICT OF TEXAS
FILED
 MAY - 3 1999
 NANCY DOHERTY, CLERK
 BY _____ Deputy

Jerry Michael Collins

vs.

Civil Action Number:

Richard Lawrence, et al.

399CVO641-P

MOTION FOR SANCTIONS UNDER RULE 11(b)

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Judge Louis B. Gohmert, Jr., Defendant in the above styled and numbered cause and files this his Motion for Sanctions and would respectfully show the Court the following:

1. Plaintiff filed suit against this Defendant solely out of this Defendant's presiding over and ruling in a lawsuit pending before his court. Judge Gohmert did not ask for the case, did not care if it was randomly assigned to him, as it was, or how the suit concluded. The only direct allegation made against Judge Gohmert is that he "knowingly and willfully aided in the commission of two or more alleged predicate offenses that constitute the alleged pattern of racketeering activity." That is the only claim against Judge Gohmert with absolutely no allegations of even *alleged* facts to justify such an allegation. The only facts Plaintiff *could accurately* allege would be that Judge Gohmert properly granted a summary judgement against him in Smith County, Texas, in Cause # 97-2850-A, styled "Jerry Michael Collins vs. Conner, Gillen, et al" that was pending in this Defendant's Court. Since the summary judgement hearing in that case encompasses the only direct contact between the Plaintiff and this Defendant, a copy of the transcript of that hearing which occurred on December 4, 1998, is attached hereto and made a part hereof for all purposes, as is the transcript of the hearing conducted by the Honorable Pat McDowell held on December 18th, 1998, on Plaintiff's Motion to Recuse.

2. Plaintiff was apparently angry that Judge Gohmert granted the Defendant's Motion for Summary Judgement in the aforementioned cause. However, instead of pursuing the normal and legal course to test such ruling, he conceded the Summary Judgement by allowing it to become final without appealing, then gratuitously added Judge Gohmert's name to this suit. The undersigned *pro se* Defendant does not know the background of the allegations against the other defendants herein, nor does the undersigned care to know.

3. The fact is, though, by suing Judge Gohmert herein, this Plaintiff has done so solely for the purpose of harassing this state judge. Rule 11(b), F.R.C.P. forbids plaintiff's conduct. *This Defendant realizes that by sanctioning the Plaintiff herein, this honorable federal Court places itself in the cross hairs of the next of Plaintiff's lawsuits,* but the hope and belief is that if each

RECORD EXCERPT # 10

32

00001

court from here forward sanctions the Plaintiff with increasing severity for baseless and harassing suits, eventually, Plaintiff will be more selective in whom he chooses to sue and will be more compliant with the law.

4. This is not an ignorant nor inarticulate Plaintiff, as Judge Gohmert stated in the hearing with the Plaintiff (Transcript of Hearing on December 4, 1998, @ p.52). Further, Plaintiff clearly has access to very good and helpful legal resources, as his pleadings reflect. This Defendant further has come to understand that having or expressing sympathy for this Plaintiff will get one sued. Accordingly, this Defendant would encourage this honorable federal Court not to fall into that trap for the unwary, but utilize sanctions, not sympathy, to placate this Plaintiff.

5. The vindictiveness and harassing nature of the Plaintiff's actions against this Defendant can be further seen in the fact that Plaintiff sent a "Notice of Lawsuit and Request for Waiver of Service for Summons" in this case in proper form and properly included a copy of the Plaintiffs original Complaint, which was received by this Defendant on March 30, 1999. Although shocked to be named in such a lawsuit, Judge Gohmert knew the rules, was not going to cause the need for formal service, calendared the 30 day deadline, and intended to respond appropriately and timely, then have 30 more days to file motions and an answer. Apparently, unsatisfied with that process, the Plaintiff had a process server come sit in Judge Gohmert's courtroom on April 12th until he took a recess at which time, the process server came forward to serve Judge Gohmert formally.

6. This Defendant, as an elected, active state district judge, has to have a visiting judge sit for him each day he has to take off to deal with Plaintiff's claims, in order not to lose valuable court time. That costs the State of Texas and its taxpayers approximately \$327 for each day. Plus, litigants before Judge Gohmert's court who have rulings pending on legitimate matters of vital concern have to be placed on hold while he deals with this spurious matter the Plaintiff has alleged, without facts, against him.

Wherefore, premises considered, Judge Gohmert respectfully prays that this Plaintiff be sanctioned with sufficient severity to make it less likely that other judges' courts and dockets will likewise be unfairly and unnecessarily disrupted, and have Plaintiff pay for the costs of visiting state district judges Plaintiff has required, which should be paid to the Texas State Comptroller - Judiciary, and to pay Defendant for all expenses incurred herein, and all such other and further relief and sanctions this Honorable Court deems appropriate.

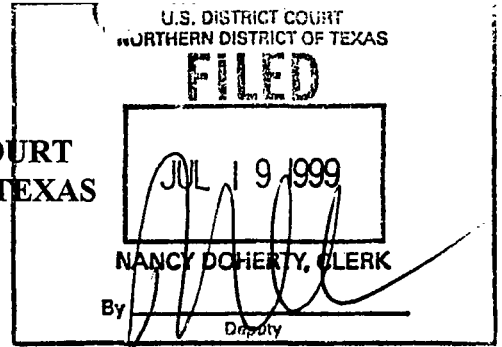
Respectfully submitted,



Louis B. Gohmert, Jr.
Judge, 7th District Court
Smith County Courthouse
Tyler, Texas 75702
Pro se Defendant

ORIGINAL

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



Jerry Michael Collins

§
§
§
§
§

vs.

Richard Lawrence, et al.

Civil Action Number:

399CVO641-P

SUPPLEMENTAL MOTION TO DISMISS
AND FOR SANCTIONS UNDER RULE 11(b)

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Judge Louis B. Gohmert, Jr., Defendant sued for his actions completely within his role as a trial judge and files this his Supplemental Motion to Dismiss and for Sanctions and would respectfully show the Court the following:

1. This Defendant trial judge has received the Plaintiff's motion requesting leave to file an amended complaint. The undersigned was actually surprised to see that the new attorney for the Plaintiff had the unmitigated gall to continue to list the undersigned as a defendant when he alleges absolutely no basis for doing so. It does not matter to this defendant judge whether this honorable court allows the amended pleading by the Plaintiff or not. **THERE IS STILL NO BASIS FOR A CLAIM AGAINST THIS STATE DISTRICT JUDGE**, nor any reason for this federal district judge herein to continue to indulge this outrageous action despite the application of absolute immunity. Even if there were no such thing as judicial immunity, there is nothing alleged to justify suing a trial judge because he granted a summary judgement after proper notice and hearing and the plaintiff never bothered to appeal the ruling which is now final and is res judicata on issues therein. **Apparently, feeling an appeal of the trial court's ruling would be futile, the Plaintiff considered the next best thing would be to abuse the trial judge and put a cloud over his name and anything he owns.**

2. The only surprise now is that a licensed attorney would place his signature on a pleading that includes this state district judge as a defendant when he sees that his own proposed amended pleading still has **nothing** that is a basis for any cause of action against this judge. **THERE IS NOTHING. I IMPLORE THIS HONORABLE COURT: PLEASE READ THE PLAINTIFF'S PLEADINGS SPECIFICALLY REGARDING THIS STATE DISTRICT JUDGE.** The plaintiff's "Factual Basis For Claims" includes **nothing** that is a basis for any claim against this defendant trial judge.

3. There has been **NO EXTENSION** agreed to by this defendant. There has been no order that this defendant has received granting an extension to respond to **this** Defendant's Motion to Dismiss unless the Plaintiff's attorney has successfully deceived this federal court by sending in agreed motions to

Wla

RECORDED EXCEPT
#11

002

extend by certain parties and providing *proposed orders* that merely indicate that the motion to extend is agreed and granted **without designating which party agreed and the specific defendant's pleading to which the response deadline is being extended.**

4. Every day this court leaves the undersigned in this suit is one more day added to the already dangerous precedent of this court by allowing a district trial judge to be sued for doing his job, asking questions of the parties at a summary judgement hearing, and ruling in accordance with what he understood the law to be, despite this defendant's personal sympathy, *at that time*, for the Plaintiff. If the Plaintiff then had a problem with the state district judge's ruling, he could appeal. He said he would. However, a funny thing happened on the way to the forum of the appellate court: plaintiff sued the judge in federal district court stating that he was suing for fraud and RICO, **but not raising an iota, a scintilla, or any single allegation of wrongdoing that would give rise to this claim.**

5. This trial judge from Tyler cannot provide any evidence regarding anything that occurred in the Plaintiff's suit in Van Zandt County. The allegations in the pleading go on at length about Van Zandt County activity. Neither the original complaint nor the proposed amended complaint allege any basis for a cause of action against the undersigned. The complaint does refer to an included chronology. **PLEASE READ IT!** Look at the actual substance of the allegations about the undersigned. *Though blatantly skewed or wrong*, still, the chronology (which was used in the case in Smith County before the Plaintiff added to it) does not mention this judge until page 10. A summary of the Plaintiff's actual allegations about this defendant judge are as follows:

a. January 17, 1998, the court's coordinator (not actually the judge as Plaintiff said) mailed the Plaintiff a pauper's oath after he failed to pay a filing fee and alleged that he could not pay. A copy of said letter is attached hereto as Exhibit "A". The pauper's oath form was provided as a favor to the Plaintiff rather than simply sending everything back to the Plaintiff for failing to properly comply with the law. There was an affidavit originally filed, but it did not provide factual information regarding the plaintiff's actual assets. It simply embellished for two pages regarding the Plaintiff's chronology and stated some legal conclusions. Factual statements about various potential assets or their non-existence were required from which the court could make its own legal conclusions.

b. February 18, 1998, the plaintiff says at page 10 of the Plaintiff's own "Chronology" that he filled out and signed the pauper's oath (he actually did not return the form that was sent but generated his own) and then the Plaintiff *actually says* he "... swore it was the truth when it was not and returned it (to) Gohmert, even though he knew doing so was committing perjury." (Plaintiff's Chronology; at page 10) Obviously, the Plaintiff believes it is proper to perjure ones' self if he believes it will keep his lawsuit from being dismissed. This also begs the question as to how long this federal court will condone and protect this type of outrageous behavior as it is used against a state district judge to the absolute abuse of the judicial system. This admitted "perjury" to prevent dismissal in state court should also be an indication to this honorable federal court as to what it can expect from Plaintiff to avoid dismissal in federal court.

c. At the summary judgement hearing on December 4, 1998, (at page 13 of the Plaintiff's

Chronology) the undersigned had the judicial nerve to interrupt the Plaintiff a number of times to attempt to get him back on track and actually answer its questions. Beside the fact that this judge often does so at summary judgement hearings in an effort to get to the heart of the issues and save everyone's time, the same judge interrupted and even cajoled the defendant's attorney. There was nothing prejudicial against this Plaintiff. In the hearing on the Plaintiff's baseless motion to recuse held by the presiding regional judge of Dallas, Judge Pat McDowell stated that he found that **Judge Gohmert "...dueled with Mr. Winslett [the defendant's attorney in that case from Strasburger&Price] over some issues, to even chastising him a couple of times on some things. Judge Gohmert, I know from personal experience, is a pretty firm judge in the courtroom. He does come down on lawyers and parties, who he feels are not doing what they should be doing in court. I just don't read anything that makes me think that he's biased toward you, personally or your lawsuit, outside the parameters of the law."** (At page 23, transcript of Judge McDowell's hearing on the Plaintiff's Motion to Recuse Judge Gohmert attached to this Defendant's Motion for Sanctions herein)

Judge McDowell went on to say to the Plaintiff directly at the hearing, **"Candidly, he (Judge Gohmert) appeared to be trying to help you a little bit along the way to bring some tough stuff out, that I would have - - if I'd been a lawyer on the other side, I would have been bothered by some, except that's Judge Gohmert. I think he wants to make sure - - or try to make sure that both sides do get a fair hearing. That's my take. You would not agree, I know. I'm going to deny your motion (to recuse)."** (id, at page 24)

d. Also on December 4, the undersigned trial judge did take issue with the Plaintiff's written statement before the court that "I know the outcome of my litigation against lawyers. I finally understand that the judges in my litigation will never allow me to present the truth about these lawyers to a jury." (The undersigned's only non-jury trial in memory between a lawyer and a layman resulted in a verdict for the layman. The Plaintiff's statement, as a slap at the judiciary, was inappropriate, although that same judge now sees how easy it is for a losing party to abuse the presiding trial judge in federal court). The Plaintiff makes a somewhat disrespectful statement that *"Then Gohmert went off on accusing Collins of attempting to get his sympathy because of his 10 year old daughter's death..."* Were a party to make such statements about a judge presiding over his litigation, he might be held in contempt. This Plaintiff has found a way around that possibility: go sue the judge alleging fraud or RICO with no basis in federal court in a district 100 miles away. There he feels, apparently that he can be as contemptuous as he wishes and lie about or mischaracterize the judge and his actions. Actually the undersigned's statement that *"went off accusing"* Plaintiff was as follows:

(Judge Gohmert):"I've read about - - in your response, about your ten year-old daughter being found dead in a hospital room. I've got a ten year old daughter. I can't imagine anything worse than that. I can't imagine the just absolute agony of a father experiencing that kind of horrifying nightmare- - but this isn't about that. (The referenced incident regarding Plaintiff's child purportedly occurred decades earlier and had nothing to do with the Plaintiff's suit.)

Personally, having been through that, you have my greatest sympathy. But from the bench, justice can't be obtained if a judge acts under sympathy. That's why I don't allow myself to be guided by sympathy in any ruling. I simply look at what the law is - - whether I agree with it or not. Is there evidence to support a lawsuit, a contention. If there is, the law provides for it,

it goes to the jury, period.

If there's not, then under the law I'm obligated to make a ruling that it doesn't go to a jury. So that's really what I'm honestly trying to get to the bottom of. I don't know- -" (at which time the plaintiff attempted to interrupt the judge)[at page 36-37 of the transcript]

e. The undersigned admits that, yes, he did grant the defendant's motion for summary judgement in that case because he believed it was required under the law and no appellate court has ruled to the contrary. **I am still shocked that I am having to spend all this time responding over a state court ruling on a summary judgement in this federal RICO action.**

f. Plaintiff alleges that he was not mailed a copy of the judgement on or about January 12th, 1999 when it was signed, although the court's clerk assures that she did (and, unlike the plaintiff, she is not an admitted perjurer; I trust her implicitly. She is one of the most honest people I have ever known... and, no, I do not normally personally mail the court's correspondence in the thousand's of cases I have handled in the last 6 ½ years.) Regardless, the Plaintiff's right to file an appeal was not abrogated or denied. He said he would appeal, but chose instead the new method of filing an abusive federal lawsuit alleging fraud and RICO violations.

6. THERE IS NO COLLUSION, NO FRAUD, NO RICO VIOLATIONS ALLEGED AGAINST THIS DEFENDANT AND CERTAINLY NONE EXHIST!!! THERE IS ONLY A PLAINTIFF WHO DID NOT APPRECIATE THE TRIAL JUDGE'S ATTEMPTS TO GET THE PLAINTIFF TO PROVIDE THE COURT WITH ANY FACTS OR LAW THAT WOULD SUPPORT A CAUSE OF ACTION IN THAT CASE and, thereby, prevent a summary judgement.

7. Plaintiff's *attorney*, surprisingly, has now invoked and provoked the sanctions that originally should have only been reserved for the *pro se* plaintiff. Both know better. Both should be hammered with all available force to discourage both them and others similarly tempted to abuse a judge, whether state or federal, for an adverse ruling. **To fail to punish this type of dangerous, egregious conduct would condone and encourage a litigant to sue any trial judge who had the audacity to interrupt a litigant's failure to address an important issue, who rules adversely to a litigious litigant, and who does not personally carry mail to insure its immediate delivery to a litigant. That would put every hardworking, conscientious judge in imminent jeopardy of unending lawsuits. Even when the undersigned is dismissed, if there are no sanctions, then there is nothing to discourage losing litigants from suing trial judges merely to abuse them. To many litigants, a filing fee (especially when none is paid by a purported pauper) would be well worth it to punish a judge he simply does not like.**

8. PLEASE, IF THE COURT STILL CANNOT SEE THE TRAVESTY AND DAMAGE TO THE JUDICIAL SYSTEM OCCURRING HERE, SET AN IMMEDIATE HEARING, DEMAND ANSWERS FROM THE PLAINTIFF AS TO ANYTHING THAT SUPPORTS A CLAIM AS MADE AGAINST THIS TRIAL JUDGE, THEN HAMMER PLAINTIFF FOR THE OUTRAGEOUS ABUSE THAT SHOULD THEN BE CLEARLY APPARENT, THOUGH IT SHOULD BE SELF-EVIDENT RIGHT NOW.

9. A continuation of this case against this judge is WRONG; IT IS OUTRAGEOUS; IT IS OUTRAGEOUS; AND IT IS OUTRAGEOUS. Discovery is now commencing and this wrongly sued judge is still being left as a party.

10. The undersigned judge knows what it is to have an overwhelming docket with so many files and motions to review and decide, but the implications of this suit against this defendant for each and every day nothing is done and no sanctions are issued puts our entire state and federal judiciary at risk, and that is no overstatement. It is at risk, and it is in this federal court's hands. Please act soon.

WHEREFORE, PREMISES CONSIDERED, this defendant trial judge, sued because of an adverse ruling, respectfully pleads, urges, and beseeches this honorable court to act now, dismiss the Plaintiff's non-existent cause of action against him, and sanction both the Plaintiff and the Plaintiff's attorney with all the power it can legally muster, and thereby end this horribly dangerous and abusive precedent against the judiciary itself.

Respectfully submitted,



Louis B. Gohmert, Jr.
pro se

Certificate of Service

A copy of the above pleading is being sent by U.S. Mail to Plaintiff's attorney and attorney for the other Defendants as well as pro se Defendants at the addresses indicated on Exhibit "B" hereto on this the 15th day of July, 1999.



Louis B. Gohmert, Jr.



Louis B. Gohmert, Jr.

JUDGE, SEVENTH JUDICIAL DISTRICT COURT

100 N. BROADWAY AVENUE, ROOM 203
SMITH COUNTY COURTHOUSE
TYLER, TEXAS 75702

Chelle Morrow
Court Coordinator

Amie Gonzalez
Assistant Court Coordinator

Ginger Compton, CSI
Court Reporter
903/535-0628

Facsimile
903/535-0457
Office Phone
903/535-0625

January 17, 1998

Jerry Michael Collins
3406 Tower Road
Santa Fe, Texas 77517

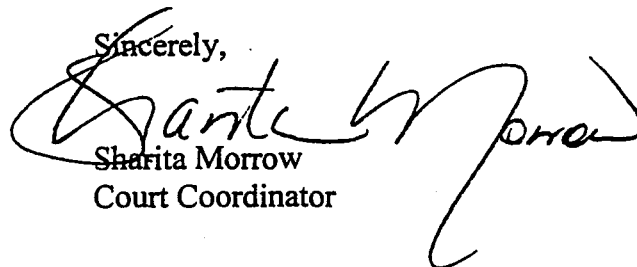
RE: Cause Number 97-2850-A; Collins v. Conner, Gillen, Yarbrough & Anderson

Dear Mr. Collins:

Enclosed is a Pauper's Oath Affidavit (to determine your indigence) that the court has provided if you wish to fill it out. If you wish to do so, please fill the form out completely and return it to the court immediately.

If you have questions, please contact the court.

Sincerely,



Sharita Morrow
Court Coordinator

/srm

Enclosure

EXHIBIT "A"

00302

ORIGINAL

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MAY 6
[Signature]

Jerry Michael Collins

vs.

Civil Action Number:

Richard Lawrence, et al.

399CVO641-P

RESPONSE TO PLAINTIFF'S OPPOSITION TO JUDGE
GOHMERT'S MOTION FOR SANCTIONS

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Judge Louis B. Gohmert, Jr., Defendant in the above styled and numbered cause and files this his Response to Plaintiff's Memorandum and Opposition to Judge Gohmert's Motion for Sanctions and would respectfully show the Court the following:

1. The Plaintiff's response, like his lawsuit, provides absolutely no facts on which to base either the suit against this Defendant or any reason that sanctions should not be made. The response does cite law, but continues to avoid the following facts that have been strenuously raised repeatedly:

a. There have been no facts alleged nor supported that raise any justiciable issue with this state district trial judge, other than that the Plaintiff was unhappy with the granting of an appropriate motion for summary judgement. This Defendant Judge had been sympathetic to the Plaintiff's personal situation and attempted to explain the law to the Plaintiff in an effort to facilitate the Plaintiff (pro se in that case) by describing the elements of his alleged cause of action and the need to have at least some sworn evidence of some kind to establish the various elements. Rather than file an appeal, he filed a motion to recuse. At that hearing, the Regional Presiding Judge, Pat McDowell of Dallas, indicated that if he had been the attorney from Strasburger Price representing the defendant in that case, he would have been concerned that the undersigned trial judge was being overly helpful to this Plaintiff. He also advised the Plaintiff of the remedy of appeal. Both proceedings' transcripts are attached to this Defendant's original Motion for Sanctions.

b. Rather than appeal, the Plaintiff filed this RICO action with no supporting factual evidence against this Defendant judge whatsoever. The Plaintiff disagreed with a ruling and also found this judge's comments offensive when defending our judicial system against the Plaintiff's blanket attacks of corruption and unfairness (see transcript of the December 4, 1998 attached to this Defendant's original Motion for Sanctions). There are indeed unfair occurrences in the legal system (this lawsuit, for example), but that does not justify statements of ubiquitous corruption. Disagreeing with a ruling and angry that the Court would sometimes interrupt the Plaintiff's tirades with questions, the Plaintiff did not appeal. No; he decided to sue claiming an organized crime had occurred. He made no factual assertion then or ever to support the elements of that claim.

RECORD EXCERPT #12

100

c. The Plaintiff originally filed this federal suit *pro se*, and the undersigned was pleased to find that he had obtained legal counsel who should know better. He did not. Both the Plaintiff individually and his licensed attorney then exacerbated the damage and outrage by persisting in fighting to keep this Defendant judge in the suit for an entire year with no facts; only animosity over a ruling.

2. To answer the Plaintiff's Memorandum point by point, this honorable Court is directed to the following:

a. Plaintiff's RICO claims herein against a district trial judge for granting a summary judgement that the court believed was required by law are "unsupported by existing law or by good faith argument for a change in existing law." If this court simply reads the transcript of the summary judgement hearing in the underlying case (the transcript of which is attached to the original Motion for Sanctions in this federal case), the absurd nature of the Plaintiff's claims becomes quite apparent. If a judge or anyone else conspires to violate the law, certainly, he or she should pay. But, there is no existing law nor should there be, and it can not be argued in good faith that there should be, that a sitting judge doing his duty and ruling adversely to a party should be sued in federal court by that unhappy party, regardless of whether or not that party misunderstands the judge's attitude and sympathy toward that same party. Such a notion for a suit is simply wrong and literally dangerous to our judicial system of redress with checks and balances. If the summary judgement ruling had not been proper, an appellate court would have been consulted and a different ruling obtained. Therefore, the only reason to sue this Defendant judge would be to harass out of a vengeful misguided motive.

b. The Plaintiff's allegations did "not have, or (were) unlikely to have after reasonable investigation, evidentiary support." There were not, and still are not, even any factual allegations against this Defendant judge that supported his being sued. The law provides for appeal and this Defendant strongly supports and would fervently defend the right of any litigant to appeal__ but not to turn around and sue the judge simply because of an unfavorable decision. That was and is outrageous. Any reasonable inquiry would have clearly resulted in the non-inclusion of this Defendant in this suit or in his immediate non-suit. Yet, the Plaintiff personally sued and his attorney fought to continue the harassment for an entire year. Either no reasonable inquiry was ever made, or a reasonable inquiry was made and the Plaintiff and his attorney chose to pursue a vicious, heinous, unsupported, and nonexistent claim of corruption, despite any indication of its propriety. Unsupported and vindictive claims that a court is "racketeer influenced" or a "corrupt organization" to invoke a federal court's jurisdiction and waste its time simply should not be tolerated. There is one way to bring that point home.

c. The third provision of Federal Rule of Civil Procedure 11(b) cited by Plaintiff in his attempt to avoid the consequences of his vindictive decision to sue rather than appeal, regarding "denials unwarranted by the evidence," does not apply since the parties in question here are the Plaintiff and his attorney, and not a defendant.

3. This Defendant would respectfully request that this honorable Court or its clerks literally read the two short transcripts attached to Judge Gohmert's Motion for Sanctions to fully appreciate the egregious nature of this federal RICO suit's inclusion of this trial judge.

4. This Defendant thoroughly believes in the Constitution he swore to defend in the military as well as the Texas laws providing the right to open courts. This Defendant further believes absolutely that no one in this country including a judge should be above the law. But that also includes a person and his attorney who abuse those rights. The law sets out sanctions for such abuse and those provisions should be applied as well, in order to avoid undue harassment of a judge just working diligently to uphold and follow the law proscribed.

5. This Defendant has utilized a visiting judge on two different days to allow him an opportunity to deal with this suit at a cost to the State of Texas of \$327 per day. The rest of the significant burden required by this frivolous suit has been borne by the undersigned including one trip to Dallas personally to insure that filing requirements and rules were timely and appropriately met.

6. The vindictiveness and harassing nature of the Plaintiff's actions against this Defendant can be further seen in the fact that Plaintiff sent a "Notice of Lawsuit and Request for Waiver of Service for Summons" in this case in proper form and properly included a copy of the Plaintiffs Original Complaint, which was received by this Defendant on March 30, 1999. Although shocked to be named in such a lawsuit, Judge Gohmert knew the rules, was not going to cause the need for formal service, calendared the 30 day deadline, and intended to respond appropriately and timely, then have 30 more days to file motions and an answer. Apparently, unsatisfied with that process, the Plaintiff hired a process server to come sit in Judge Gohmert's courtroom on April 12, 1999 until he took a recess at which time, the process server came forward to serve Judge Gohmert formally.

7. If the Plaintiff is willing to go to that type of additional expense just to harass a trial judge, he should be made to pay sanctions to discourage such antagonistic and malevolent activity in the future. If this honorable federal Court and, if this honorable federal Court is sued as a result of its ruling herein, each succeeding court will sanction the Plaintiff and his attorney in increasing amounts, the parties and others similarly tempted will ultimately receive the message that outrageous conduct will not be abided. To do otherwise would have a "chilling effect" on justice and place in the back of judges' minds that regardless of which litigant should prevail under the law, ruling against the most obnoxious or vexatious litigant will subject the judge to lengthy personal litigation himself without any resulting penalty to the wrongdoer for his unwarranted harassment.

Wherefore, premises considered, this Defendant judge respectfully prays that this honorable Court find that this is precisely the type of case that requires sanctions, and order such sanctions against the Plaintiff who filed this suit and the licensed attorney who fought to continue the travesty against a trial judge simply working to do his job, and make such sanctioned amounts payable to the State of Texas and also this Defendant, with an additional amount to the federal government for wasting its time, personnel, and resources out of vindictiveness over a proper ruling.

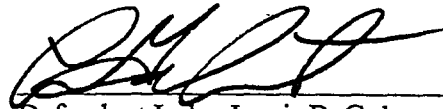
Respectfully submitted,



Defendant Judge Louis B. Gohmert, Jr.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served on Plaintiff's attorney, the Texas Attorney General as attorney for remaining defendants by certified mail return receipt requested on this 12 day of May, 2000.



Defendant Judge Louis B. Gohmert, Jr.

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Jerry Michael Collins

vs.

Civil Action Number:

Richard Lawrence, et al.

399CVO641-P

ORDER FOR SANCTIONS UNDER RULE 11(B)

On this day came on to be considered the Defendant's Motion for Sanctions and the Court having considered all matters relevant thereto finds that the actions of the Plaintiff and his attorney of record require sanctions under Rule 11 of the Federal Rules of Civil Procedure and under the case law interpreting such rule, and the Court finding that none of the bases for avoiding sanctions are present in the case at bar alleged against Defendant Louis B. Gohmert, Jr., and, accordingly,

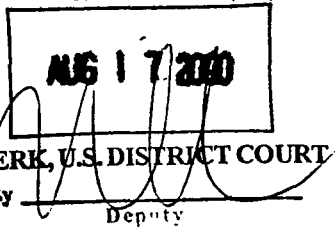
IT IS HEREBY ORDERED that Plaintiff and his attorney are hereby sanctioned for bringing a suit against Defendant Louis B. Gohmert, Jr. which was for the purpose of harassment when there was no basis in fact or in law, and reasonable inquiry indicated that fact, and the Court ORDERS that Plaintiff, Jerry Michael Collins, and his attorney, G. David Westfall, jointly and severally, shall pay to Texas State Comptroller- Judiciary the amount of \$ _____ and that Plaintiff, Jerry Michael Collins, and his attorney, G. David Westfall, jointly and severally, shall pay to Judge Louis B. Gohmert, Jr. the amount of \$ _____ as a sanction, and that Plaintiff, Jerry Michael Collins, and his attorney, G. David Westfall, jointly and severally, shall pay to the United States District Clerk the amount of \$ _____ for all of which amounts, execution may issue and that Plaintiff, Jerry Michael Collins, and his attorney, G. David Westfall, are further ORDERED to make all such payments on or before the ___ day of _____, 2000, at the address of each payee herein.

Signed of this the _____ day of _____, 2000.

JUDGE PRESIDING

ORIGINAL

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

 CLERK, U.S. DISTRICT COURT
By _____ Deputy

Jerry Michael Collins

vs.

Richard Lawrence, et al.

§
§
§
§
§

Civil Action Number:

399CVO641-P

AFFIDAVIT

Before me, the undersigned authority, on this day personally appeared the undersigned affiant, on oath that the following facts are true:

"My name is Louis B. Gohmert, Jr. I am of sound mind, over eighteen years of age, capable of making this affidavit, and fully competent to testify to the matters stated herein.

I am the judge of the 7th District Court sitting in Tyler, Texas, who was sued as a defendant in the above styled and numbered cause. Expenses that have been incurred in my defense of this unwarranted claim include travel a total of 210 miles to and from Dallas on one occasion to examine the District Clerk records after being served with process and, while there, file a responsive pleading, and to determine what, if any, other documents should be filed. Having been served personally after having received the notice by mail, calendaring my response deadline, I realized fully that I would be foolish not to personally appear at the district clerk's office to check on the pleadings filed and insure that I was complying with the local and all federal rules. I could have hired an attorney to represent me knowing that upon the hopeful recovery of fees and expenses, such amounts would substantially increase the sanctions to be imposed. However, heightened sanctions were not the goal. Justice was. I represented myself, and one trip to Dallas was very reasonable, helpful and necessary, and the plaintiff is now the beneficiary of my frugality.

In addition, more than 1104 copies were made at 1 cent each, all of which were reasonable and necessary to the proper defense of this lawsuit. Also, at least 5 letters were sent by certified mail at a cost of \$ 2.98 each. A total of at least 32 letters were sent by regular mail at a cost of at least 33 cents per letter, all of which were reasonable and necessary to the proper defense of the suit as well as required under the rules.

It was necessary to have a visiting judge assigned to handle my case load for the one occasion I needed a critical day to deal with this case. A direct result of the plaintiff's suing me in a venue so far away from my home and my bench is this type of additional expense. Had this frivolous claim been filed here in the Eastern District, the plaintiff would have saved the defendant

RECORD EXCERPT
13

105

some expenses and thereby lowered their sanctions. Again, such amount was substantially less than the cost of hiring an attorney to do all the work in my defense. The cost to the State of Texas for the visiting judge was \$ 379.94. I was able to have one assigned who was local and did not have to charge the normal travel.

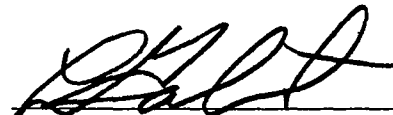
In summary, reasonable and necessary expenses as a direct and proximate result of the lawsuit filed against me include the following:

- (1) 210 miles at 31 cents/ mile(the federally prescribed rate).....\$ 65.10
 - (2) \$ 7.00 parking.....\$ 7.00
 - (3) 1,104 (at least) copies at 1 cent /copy.....\$ 11.04
 - (4) 5 letters sent certified mail at \$ 2.98 / letter (at least).....\$ 14.90
 - (5) 32 letters (at least) sent regular mail at 33 cents / letter (at least).....\$ 10.56
- TOTAL...\$108.60**

The payment of these expenses should be made to the undersigned.

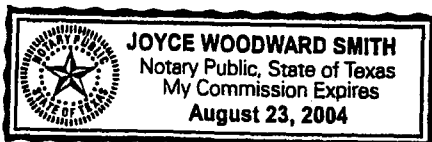
The amount of \$108.60 was not only quite necessary in defense by Judge Gohmert against this baseless claim, it was exceedingly reasonable since it represents only a portion of the actual expense incurred; but, it is the amount that has been confirmed at this time. The many hours in legal research and review, and preparation of the pleadings and documents would have been billed at least at \$150 to \$200 an hour were I able to practice law or to charge myself. However, the wasted hours (at least 60) that this plaintiff and his attorney have cost me would have to be considered priceless, especially spending as many hours as possible on my own time to deal with the harassment. Therefore, the plaintiff benefits by the undersigned being *pro se*, though it created more work and abuse for the undersigned. If the plaintiff and his attorney wish to contest these reasonable expenses, I will go ahead and dig deeper to document more than what I have above. It is simply at this point that I did not wish to spend more time digging out the expenses than I already have. I would also hope to be allowed to do briefing to make a case for payment for my time in sanctions if the plaintiff is going to contest the incredibly reasonable amount of expenses sought herein.

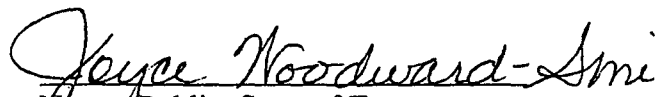
Additionally, the reasonable and necessary one day's service by a visiting judge in the amount of \$ 379.94 should be made payable to the Comptroller for the State of Texas. If sent to me, I will see that it reaches the proper office."



Judge Louis B. Gohmert, Jr.
Affiant

Signed and sworn to before me on this the 11th day of August 2000.



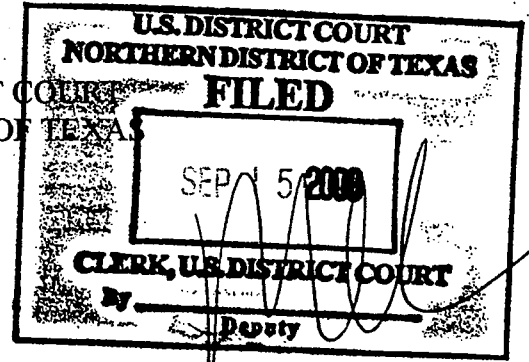


Notary Public, State of Texas

[Handwritten signature]

ORIGINAL

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



JERRY MICHAEL COLLINS,

Plaintiff

VS.

RICHARD LAWRENCE, et al
Defendants.

CIVIL ACTION NO 399CV0641-P

PLAINTIFF JERRY MICHAEL COLLINS'
THIRD REPLY TO THE
JULY 27, 2000 AND SEPTEMBER 8, 2000
ORDERS OF JUDGE SOLIS

Plaintiff Jerry Michael Collins, (hereinafter referred to as "I", "my", "me", "mine", "myself") files this his 3rd reply in response to the July 27,2000 and September 8, 2000 Orders of Judge Solis, (hereinafter referred to as "Your Honor", "you", "your"), and states the following:

Honorable Judge Solis, I come before you **pleading** for you to personally read all of this and my two previous replies. I am submitting this reply with my sincere effort to show you, through a summary of the series of significant events relevant to my RICO cause of action, so the **truth** will help you make a fair, final ruling, which I believe you will.

RECORD EXCERPT #14

///

Your Honor, the following is the summary of significant events which I plead with you to accept as the truth when you make your final ruling on sanctions against me:

1. Records would show that law enforcement officers illegally invaded my home in the El Paso area in 1991 and all of my personal and business belongings were seized. In 1992, I accepted an out of court settlement for the amount of my losses.
2. Records would show that, in 1995, my home in east Texas was twice illegally invaded by law enforcement officers and all of my property seized. The first of those two illegal invasion was by at least 3 defendants in this case. The second illegal invasion of my home in 1995 was committed by at least one of those defendants and an unknown law enforcement officer later that same date.
3. Records would show that the financial records seized in those invasions would show I was generating business revenue in excess of \$100,000 per year.
4. Records in this Court show I employed 4 different lawyers to help me recover my losses resulting from the two 1995 invasions of my home. I sought three of those lawyers but the other one, David Westfall,

sought and solicited me. I was never permitted discovery and none of my suits ever went to trial.

5. After having lost my home, business, and all of my personal belongings and after every lawyer I employed to help me turned on me I had a choice of taking the law into my own hands or doing the civil thing to resolve my problem by filing a lawsuit. So, I chose to file a Civil RICO suit in your court on March 24, 1999, solely for the purpose of seeking justice. With justice, I expected to not merely be appropriately compensated for all of the damages I suffered as a result of the *prohibited practices* of the defendants, but to supplement the Government's efforts to *deter*, and to *penalize* those who committed such *prohibited practices*. (*Rotella v. Wood* – Supreme Court of the United States No. 98-896, February 23, 2000)
6. Shortly after I withdrew my last state-court suit, on or about Sunday, December 13, 1998, Udo Birnbaum, a Van Zandt County retired engineer, delivered a phone message to me, which requested me to contact a woman, whom I did not know, by the name of Kathy Young. I learned that night that Kathy Young contacted me at the request of Dallas lawyer, G. David Westfall. (see Affidavit of Udo Birnbaum-EXHIBIT #1)

7. On that cold Sunday night, G. David Westfall drove some 70 miles to meet with me in Henderson County. One of the first things G. David Westfall learned at that first meeting was that I was a pauper and had been a pauper since about November 1996, and that I was receiving \$4 a day from Welfare for food. After having a bad experience with 3 previous lawyers I was curious why Westfall seemed to be interested in my suit in a state-court. When I non-suited that state-court case Westfall introduced me to a cause of action I had never heard about - RICO. Records would show G. David Westfall even provided me with a book to study on RICO so I could file a complaint, *pro se*.
8. I was curious as to why a long-time Dallas lawyer, big time land owner and high-dollar cattle rancher, G. David Westfall, would show so much interest in my legal problem after he knew I was a certified pauper who had sued all of my previous lawyers. I was bewildered when, a few months later, G. David Westfall solicited me to employ him to represent me in the RICO suit he suggested I file.
9. Bewildered over Westfall's interest in this "pauper's" case, records would show I was confused when Judge Gohmert wrote a letter to me, very soon after I filed a suit in his Court, against officers of his Court. Records would show that my curiosity about Judge Gohmert turned to

bewilderment when I read the reason Judge Gohmert wrote his letter to me. Since I was not indicted for a crime, I assumed Judge Gohmert's letter was merely a mistake, so I replied to his letter with first a phone call and then a follow-up letter explaining that I was not a criminal nor had I been indicted on anything. I thought Judge Gohmert would appreciate my pointing that out to him, but he responded with a firm letter, telling me if I did not return the form he had mailed me, with it signed and notarized he would dismiss my suit against the officers of his Court. Even though I knew that giving a false statement, under oath, was a crime, Judge Gohmert gave me no alternative but to sign it and mail it back to him. For a while it was a mystery to me how Judge Gohmert knew, so soon, that a non-prisoner, pauper had filed a suit in his Court. Just as the reason became clear what Westfall had done, the reason Judge Gohmert did what he did about me being a pauper became clear. Also, the reason Judge Gohmert deliberately delayed notifying me of his summary judgement ruling became clear.

10. After studying the RICO book Westfall loaned me and after he went with me to the law library to show me other RICO books, on March 24, 1999 I filed my original RICO complaint (*pro se*), in your Court.

Records show that my case did not arise out of what you found happened in 1995, but out of what began happening to me in the El Paso area in 1991. The reason G. David Westfall did not enter his appearance on my behalf until May 17, 1999 should be significant. (see Exhibit 1, page 2)

11. On May 3, 1999 Judge Gohmert filed his first Motion for Sanctions against me.
12. G. David Westfall, knowing I had no money and knowing that Judge Gohmert had filed his Motion for Sanctions against me, he went ahead and entered his appearance as my lawyer in your Court on May 17, 1999. I asked Westfall why I should not respond to Judge Gohmert's Motion for Sanction but he told me in a most unconcerned way, "*Gohmert's motion for sanctions is too ridiculous to respond to.*"
13. On July 28, 1999, without any objection from you or warning to me about sanctions, I filed my first Amended Complaint and you accepted it.
14. On July 19, 1999 defendant Judge Gohmert filed his supplemental Motion for Sanctions against me. Again, G. David Westfall said he would not respond to it for me, because his motion was "*ridiculous*".

15. After Judge Gohmert filed his Motion for Sanctions, ten (10) months went by, then on March 7, 2000, you ordered me to file a response to Judge Gohmert's motions for sanctions.
16. Records would show G. David Westfall had me prepare a response to Judge Gohmert's Motion for Sanction. I did as he instructed me to do and presented my response to him. And, on March 27, 2000, G. David Westfall re-wrote the response I prepared and he filed it.
17. Then four months later, July 27, 2000, you granted Judge Gohmert's Motions for Sanctions against me. You requested Judge Gohmert file and serve me with a properly authenticated affidavit of his and the State of Texas' costs and expenses in defending against my suit.
18. I immediately informed this Court that Judge Gohmert had not served me with any affidavit establishing the amount of fees and costs actually incurred by him and/or the State of Texas.
19. You stated in your July 26, 2000 Order, "*But that an attorney such as Westfall could file a complaint against a state-court judge based upon the circumstances in this record leaves the Court nothing short of bewildered.*"

CONCLUSION

My RICO complaint was genuine at the time I originally filed it. And, everything Westfall has done since he sought me out in December 1998, provided legal services to me, then 5 months later solicited me to employ him shows that my complaint of such racketeering is even more genuine.

Your Honor stated, "... *it is even more significant that the frivolous claims against Judge Gohmert continued to be asserted by Collins after G. David Westfall was retained. As reprehensible as Collins' conduct against Judge Gohmert is, he was acting pro se during many of the matters. But that an attorney such as Westfall could file a complaint against a state-court judge based upon the circumstances in this record leaves the Court nothing short of bewildered. But again, just because it may be more understandable for an un-represented party to pursue frivolous claims, Collins' pro se status should not, and will not, shield him from sanctions in this case.*

Your Honor, as expressed above, I too was bewildered by Westfall's conduct. However, I am also bewildered as to how you, after one year, would not accept even the possibility that my RICO complaint is indeed genuine. Had discovery been allowed, as you allowed me to reply to Judge

Gohmert's expenses and costs, your being "*nothing short of bewildered*" [over Westfall]" would have not occurred.

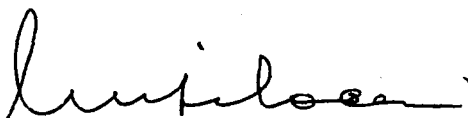
To punish me, a person who lost his home, lost his only means of earning a living, has no money (except what is left each month of is Social Security, after his medical expenses) the same amount as you punish a big time Dallas lawyer, large land owner, high dollar cattle rancher, is not fair nor is it what the law intended, even if my suit was frivolous, which it is not.

Only in prisoner's suits and then, only in accordance with *1915d*, are you allowed to pierce the veil of allegations and only under those circumstances are you allowed to find that the cause was frivolously and only if the allegations rise to the level of the irrational and the delusional.

Your Honor, I fully understand that you can dismiss my RICO cause of action for any reason you choose, but to rule that my complaint was frivolous, then sanction me for filing it, without allowing any discovery and without any warning to me, is not justice.

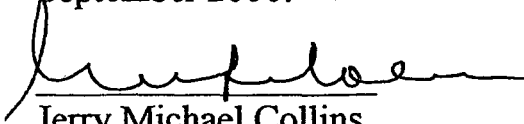
Signed this 15th day of September, 2000.

Respectfully submitted,


Jerry Michael Collins, *pro se*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been provided Judge Gohmert and G. David Westfall, via U. S. Mail on this the 15th day of September 2000.



Jerry Michael Collins

104 FM 316 S-

EUSTACE, TX 75124

JR

2

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JERRY MICHAEL COLLINS,
Plaintiff,

vs.

RICHARD LAWRENCE, ET AL.
Defendants.

)
)
)
)
)
)
)

CIVIL ACTION NO. 3:99-CV-0641-P

AFFIDAVIT OF G. DAVID WESTFALL

“My name is G. David Westfall. I am over the age of 21 years and am competent to give this affidavit. All of the facts stated herein are within my personal knowledge are true and correct.

“On May 3, 1999, I talked with Mr. Michael Collins for the first time concerning representing him in this case. On May 10, 1999 we agreed to represent Mr. Collins in this case after reviewing most of his pleadings and documents. That same day, I called the Texas Attorney General’s office to talk with Mr. Vance to obtain his agreement for an extension of time. He was out and I therefore talked with his paralegal Mr. Dale Yarbrough. After explaining the circumstances to Mr. Yarbrough he told me that the extension of time was a good idea, that Mr. Vance would probably agree to it, that Mr. Vance and the office generally does agree to these type Motions. He went on to state that he would recommend that they agree to the Motion. During the conversation he stated to me that ‘we are swamped and understand time constraints particularly people like yourself that are solo practitioners.’ Lastly, he stated that he would call and tell me one way or another after he had talked with Mr. Vance.

“On May 14, 1999 I sent a Stipulation and Order to the Attorney General’s office because of the positive nature of Mr. Yarbrough’s statements. See a copy of my cover letter and Stipulation and Order, which is attached hereto and incorporated herein by reference for all purposes as Exhibit ‘1’.

“On May 17, 1999 not having heard from the Attorney General’s office I called for Mr. Vance and talked with the paralegal, Mr. Yarbrough. Mr. Yarbrough told me at that time that he had talked to the attorney’s and that they had agreed to the extensions in both the Collins case as well as the Birnbaum case. I told him that we had sent a Stipulation and Order for their approval. He told me that he had not seen that just yet but not to worry that that would be just fine. When he did get it he would have it signed and returned to us. I told him on the strength of his statement that I was not filing a Motion to Extend the time but would simply get the Order and have it entered in due course.

RECORD EXCERPT
#15

00212



"The next day, May 18, 1999, at approximately noon, I received a call from Mr. Dale Yarbrough who left a message on my answering machine that he was embarrassed but the decision to agree to our Motion had been reversed. He went on to say that the Attorney General's office cannot agree to the extensions and he went on to request that I call when I get in and that he or Mr. Vance would explain in detail the reasons for the reversal.


"When I got back to the office I did return the call. Mr. Yarbrough told me that Mr. Vance had gone to a funeral in Waco and that I should talk to Mr. Dan Maeso in the office.

"Thereafter I did talk to Mr. Dan Maeso who stated that he was one of the assistants to the Attorney General and was involved in this case. He stated that he had received a communication from Judge Gohmert who was vehemently opposed to any extensions of any kind in this case. He told me that the Attorney General's office was not representing Judge Gohmert but that the office must respect his (Judge Gohmert's) wishes. That he can't agree because Judge Gohmert insists. He went on to say that they would probably agree to the extension of time in the Birnbaum matter and would be back in touch with me as soon as they had discussed it and would let me know. He told me at that time that he had copies of the Motion and Order in both cases and when he had discussed the matter with Mr. Vance that they would be back in touch with me.

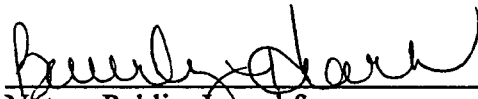
"On May 27, 1999, Mr. Vance called and told me that he was sorry but because of the communication they had received from Judge Gohmert that they were just not in a position to agree to the Motion for Extension of Time.

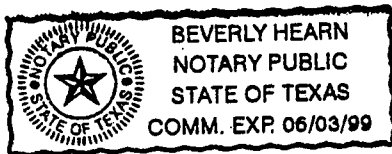
"Further Affiant sayeth not."

SIGNED this the 1st day of June, 1999.


G. David Westfall

SUBSCRIBED AND SWORN to before me on this the 1st day of June, 1999, to certify which witness my hand and seal of office.


Notary Public, in and for
The State of Texas



00213

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NORTHERN DISTRICT OF TEXAS
FILED
MAY 30 2001
CLERK, U.S. DISTRICT COURT
By _____ Deputy

JERRY MICHAEL COLLINS)
)
 PLAINTIFF) CIVIL NO. 399CV0641-P

RICHARD LAWRENCE, ET AL)

NOTICE OF PAYMENT OF SANCTIONS

TO THE HONORABLE JUDGE OF COURT:

Plaintiff JERRY MICHAEL COLLINS files this his notice that pursuant to this Court's Order sanctions of \$54.30 has been paid to Judge Louis B. Gohmert, Jr. and sanctions of \$189.97 has been paid to the Comptroller for the State of Texas, and sanctions of \$2500 has been paid to this Court for sanctions ^(AGAINST JERRY MICHAEL COLLINS) ~~paid~~ under it's inherent power has been paid in full. *EXHIBITS "A" & "B"*.

Respectfully submitted,

Jerry Michael Collins
Jerry Michael Collins, Plaintiff pro se
10101 Hwy 31 - East
Murchison, Texas 75778

CERTIFICATION OF SERVICE

I certify that a true and correct copy of this document has been delivered to Appellee Judge Louis B. Gohmert, Jr. on this the 29th day of May 2001.

Jerry Michael Collins
Jerry Michael Collins

RECORD EXCERPT
#16

May 25, 2001

Honorable Louis B. Gohmert, Jr.
Judge, 7th Judicial District Court
100 N. Broadway, Rm. 203
Smith County Courthouse
Tyler, Texas 75702

EXHIBIT
"A"

Honorable Judge Gohmert,

I have enclosed two personal checks pursuant to the sanctions ordered by Judge Solis on March 26, 2001 in cause number 399cv0641 in the United States District Court, Dallas. One check, in the amount of \$54.30, is payable to you and the other, in the amount of \$189.97, is payable to the Comptroller for the State of Texas.

Respectfully submitted,

Jerry Michael Collins

Pursuant to sanction of Judge Solis dated March 26, 2001 to be forwarded by Judge Gohmert to Comptroller for the State of Texas.

ACCOUNT NO. _____ DATE MAY 25, 2001 88-151/1119

PAY TO THE ORDER OF COMPTROLLER FOR THE STATE OF TEXAS \$ 189⁹⁷

ONE HUNDREDEIGHTY NINE AND 97/100 DOLLARS

THE AMERICAN NATIONAL BANK of Texas
(972) 524-3411 • P.O. BOX 5033
1-800-837-6584 • GUN BARREL CITY, TEXAS 75147

MEMO _____ *[Signature]*

⑆ 111901519⑆ 1900001858⑈

Pursuant to sanction of Judge Solis dated March 26, 2001

NAME _____ ACCOUNT NO. _____ DATE MAY 25, 2001 88-151/1119

PAY TO THE ORDER OF Judge Louis B. Gohmert, Jr \$ 54³⁰

Fifty Four AND 30/100 DOLLARS

THE AMERICAN NATIONAL BANK of Texas
(972) 524-3411 • P.O. BOX 5033
1-800-837-6584 • GUN BARREL CITY, TEXAS 75147

MEMO _____ *[Signature]*

⑆ 111901519⑆ 1900001858⑈

en

EXHIBIT
"B"

Wed May 30 12:39:37 2001

UNITED STATES DISTRICT COURT

, TX

Receipt No. 300 151229
Cashier burton

Tender type CASH

Transaction type C

Case No./Def No. 3:99-CV-000641/ 1

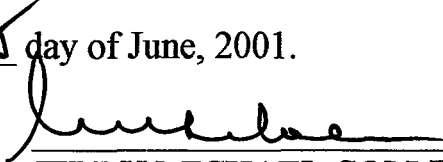
DO Code	Div No	Acct
4677	3	322300

Amount \$ 2500.00

COUNTER PART ON SANCTION JERRY MICHAEL
L COLLINS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Record Excerpts have been served upon Appellee Louis B. Gohmert, Jr., pro se, Smith County Courthouse, Tyler, Texas 75702, via Certified Mail, Return Receipt Requested on this the 15 day of June, 2001.



JERRY MICHAEL COLLINS
10101 HWY. 31 – EAST
MURCHISON, TEXAS 75778