

having been brought to trial or hearing, or (iii) determined by a trial or appellate court to be frivolous or groundless under state or federal laws or rules of procedure; or

3 After a litigation has been finally determined against him, Johnson repeatedly relitigates or attempts to relitigate, *in propria persona*, the validity of the determination or the cause of action, claim, controversy, or any of the issues of fact or law against the same defendant, or

4 Johnson has previously been declared to be a vexatious litigant by a state or federal court in an action or proceeding based on the same or substantially similar facts, transition, or occurrence

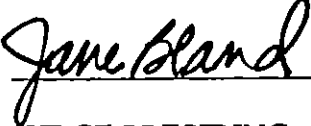
It is further ORDERED that Alfred Edward Johnson post security for the benefit of the Defendant Lincoln Financial Advisors Corporation in the amount of \$15,000 00 This amount is to ensure payment to Lincoln Financial Advisors Corporation of at least a portion of its reasonable expenses, costs, and attorney's fees incurred in connection with this litigation

It is further ORDERED that Alfred Edward Johnson post the security with the clerk of the court by the end of the ~~31st~~ ^{31st} ~~of~~ ^(P) January, 2002

It is further ORDERED that in the event Alfred Edward Johnson fails to post the security by the designated date, this case shall be dismissed

It is further ORDERED that in the event Alfred Edward Johnson non-suits this case before the date designated to post security, or fails to post security and causes this case to be dismissed pursuant to this Order, Alfred Edward Johnson is prohibited from filing any new *pro se* litigation in any court in this State unless he first obtains written permission to file such new litigation from the local administrative judge of the court

SIGNED this 18 day of January, 2002



JUDGE PRESIDING

F I L E D
CHARLES BACARISSE
District Clerk
4.27 pm
MAY 08 2003
Harris County, Texas
By _____ Deputy

No 2001-34705

ALFRED EDWARD JOHNSON

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v.

SHELBY RANLY, ET. AL

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

281st JUDICIAL DISTRICT

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IX
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STIPX

ORDER

After an evidentiary hearing, on November 30, 2001, the court declared plaintiff Alfred Johnson to be a vexatious litigant and required that he post security with respect to his claims brought against defendants Jeffrey Scott Meyer, Tom Fillion, Thomas Ehrig, James L. Supkis, Cheryl Ann Yates, and Shelby Ranly. On December 3, 2001, the court declared Johnson to be a vexatious litigant and required that he post security with respect to his claims brought against defendant Phillip L. Keller. On December 10, 2001, the court declared Johnson to be a vexatious litigant and required that he post security with respect to his claims brought against defendant Kathleen Johnson. The deadline to post the required security for these defendants was December 15, 2001. On January 18, 2002, the court declared Johnson to be a vexatious litigant and required that he post security with respect to his claims brought against defendant Lincoln Financial Advisors Corporation. The deadline to post the required security for this defendant was January 31, 2002. Each of the orders noted that the case "shall be dismissed" for failure to comply with the court's order.

Johnson did not post the security with the court clerk by the required deadlines. On January 2, 2002, the court signed an order of dismissal and severance for defendants Fillion, Fillion & Associates, Johnson and Ehrig, finally disposing of the claims as to those defendants.

On February 4, 2002, Johnson filed a "Motion for Nonsuit" but did not include a proposed order. The district clerk, treating the motion as a Rule 162 notice of dismissal or nonsuit, recorded the nonsuit of the case in the docket, with the clerk never presenting Johnson's motion

to the court for a ruling. As a result, the docketing records reflected a final disposition of the matter, even though the court never signed an order on Johnson's motion for nonsuit.

On January 30, 2003, the Court of Appeals notified the parties that Johnson had filed a notice of appeal on December 14, 2001. That notice prompted the parties to schedule a status conference regarding the case, which the court held on February 21, 2003. At that hearing, Johnson asked to withdraw his motion for nonsuit. The remaining defendants requested that the court either (1) dismiss Johnson's case with prejudice for failure to comply with its earlier orders; or (2) conclude that the court lacked plenary power over the case because the earlier orders signed by the court declaring Johnson to be a vexatious litigant were final orders. On February 24, 2003, Johnson filed a written confirmation of his withdrawal, styled "Notice of Withdrawal of Motion for Nonsuit and Memorandum Rebutting Defendants' Claim."


Although an order granting a nonsuit is ministerial in nature, if a motion for nonsuit is filed, the nonsuit does not become effective for purposes of the appellate timetable until the order is signed. *Farmer v. Ben E Keith Co.*, 907 S W 2d 495, 496 (Tex. 1995). Since an order granting the nonsuit was never presented to the court, nor was an order ever signed, the nonsuit request filed in February 4, 2002 remained pending. Johnson was free to withdraw his motion for nonsuit before the court signed the order.

Moreover, the court's earlier orders declaring Johnson to be a vexatious litigant were not final orders, but rather contemplated a later order of dismissal should Johnson fail to comply with the cost bond requirements. The court therefore continues to have plenary power in the case.

Johnson, however, has failed to comply with the court's orders requiring that a bond be posted. The deadlines for compliance passed more than a year ago, without Johnson taking any action to (1) seek an extension of time to file the cost bonds or (2) seek relief from the amount of the bond. The court therefore concludes that this case should be dismissed for failure to file the required bond for any defendant.

It is therefore ORDERED that the above-referenced case be dismissed Costs are taxed against the plaintiff

SIGNED this day, May 8, 2003.



Hon. Jane Bland
Judge, 281st District Court



I, Theresa Chang, District Clerk of Harris County, Texas, certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office
this _____

Certified Document Number: _____

THERESA CHANG, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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