

ZUEHL AIRPORT FLYING  
COMMUNITY OWNERS  
ASSOCIATION, INC.

v.

DAVID CARL GOAD

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IN THE DISTRICT COURT

166<sup>TH</sup> JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

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PARTIAL SUMMARY JUDGMENT

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Came on to be considered the Motion for Partial Summary Judgment, as to Declaratory Judgment claims, filed by Plaintiff, ZUEHL AIRPORT FLYING COMMUNITY OWNERS ASSOCIATION, INC., (“ZAFCOA”) on October 6, 2010. Defendant, DAVID GOAD (“GOAD”), though served with Plaintiff’s Motion, did not file a Summary Judgment Response, or any response evidence.

After considering the Motion, the summary judgment evidence attached thereto, and the arguments of counsel, the Court finds that the Motion should be and is GRANTED. The Court further finds as follows:

1. On June 11, 2008 and August 12, 2008, respectively, DAVID GOAD, filed separate lawsuits against ZAFCOA in the United States District Court for the Western District of Texas – San Antonio Division. The first such suit, Cause No. SA-08-CV-470; U.S.D.C. – W.D. Texas, was **dismissed** by U.S. District Judge Orlando Garcia on June 11, 2008. The second suit, Cause No. SA-08-CV-674; U.S.D.C. –W.D. Texas, was **dismissed** by U.S. District Judge Fred Biery on November 12, 2009.

2. On December 23, 2009, GOAD appealed Judge Biery's dismissal of Cause No. SA-08-CV-674 to the U.S. Court of Appeals for the Fifth Circuit. That appeal was assigned number 10-50022, and **dismissed for want of prosecution** on August 3, 2010.
3. On September 16, 2009, GOAD filed an Application for Writ of Mandamus against the Honorable Gary Steel, in the Fourth Court of Appeals, seeking to set-aside Judge Steel's finding of contempt against GOAD. That mandamus proceeding was assigned No. 04-09-00586-CV, and **dismissed as moot** on September 30, 2009.
4. On December 15, 2009, GOAD filed with the Fourth Court of Appeals another appeal of a ruling made by the Honorable Gary Steel. That appeal was assigned No. 04-09-00805-CV, and **dismissed for want of prosecution** on April 28, 2010.
5. On June 30, 2009, GOAD filed with the Fourth Court of Appeals yet another appeal of a ruling made by the Honorable Gary Steel. That appeal was transferred to the Eighth Court of Appeals and assigned No. 08-10-00216-CV. It was **dismissed for want of jurisdiction** on September 22, 2010.
6. On July 16, 2009, GOAD filed with the Fourth Court of Appeals an appeal of a ruling made in a criminal case filed against him in Guadalupe County. That appeal was assigned case No. 04-09-00439-CR, and was **dismissed for want of jurisdiction** on September 23, 2009.
7. On July 21, 2010, GOAD filed with the Guadalupe County District Clerk and the United States District Clerk for the Western District of Texas – San Antonio Division, a "Notice of Removal," whereby he sought to remove to federal court, a case pending before the Honorable Gary Steel. Said "removal cause of action" was assigned Cause No. SA-10-CV-608 by the U.S. District Clerk, and **remanded for want of federal jurisdiction** by Chief U.S. District Judge Fred Biery on July 23, 2010.

8. Each of the foregoing lawsuits or appeals were commenced by GOAD within the three (3) years before Plaintiff filed its Motion for an Order declaring GOAD a “vexatious litigant” in this cause.
9. Plaintiff was the Defendant, Respondent or Appellee in 7 of the 8 lawsuits, appeals or removals filed by GOAD between June 11, 2008 and July 21, 2010, and more particularly described herein.
10. Each of the foregoing lawsuits or appeals (and the removal) were finally determined adversely to GOAD and/or were determined to be groundless under state or federal laws or rules of procedure.
11. Based upon the Court’s file in this cause, including the various pleadings filed by GOAD herein, there appears a reasonable probability that ZAFCOA will prevail in this litigation, and that GOAD will not.
12. TEX.CIV.PRAC. & REM. CODE § 11.101 authorizes a Court to enter a “pre-filing order” against “a person,” and to find “a person” to be a “vexatious litigant” without express reference to whether such person is the Plaintiff or a Defendant in a litigation.
13. The summary judgment evidence of record in this cause establishes that there is no fact issue concerning whether GOAD meets the criteria for “vexatious litigant” as provided in TEX.CIV.PRAC. & REM. CODE § 11.054, and Plaintiff is entitled to summary judgment on its request for declaratory judgment, as a matter of law.

It is therefore **ORDERED, ADJUDGED and DECREED** in accordance with the provisions of TEX.CIV.PRAC. & REM. CODE § 11.054 and TEX.CIV.PRAC. & REM. CODE § 37.003, that DAVID CARL GOAD is declared to be a “vexatious litigant,” as that term is defined in Chapter 11 of Title 2 of the Texas Civil Practices and Remedies Code.

It is further **ORDERED, ADJUDGED and DECREED**, in accordance with the provisions of TEX.CIV.PRAC. & REM. CODE § 11.102, that DAVID CARL GOAD is hereby

**PROHIBITED** from filing, *in propria persona*, a new litigation in a court in this State without first either (i) obtaining the permission of the local administrative judge of the court in which DAVID CARL GOAD intends to file the litigation; or (ii) furnishing security for the benefit of any Defendant(s) in such proposed litigation in the amount of \$50,000.00.

It is further **ORDERED** that the Clerk of this Court shall provide the Office of Court Administration of the Texas Judicial System with a copy of this Judgment/Order, and that the name of DAVID CARL GOAD be added to the list of vexatious litigants required to be maintained by TEX.CIV.PRAC. & REM. CODE § 11.104(b).

In accordance with TEX.CIV.PRAC. & REM. CODE § 37.009, court costs, together with reasonable and necessary attorneys' fees in the amount of \$5,000.00 are hereby awarded to ZUEHL AIRPORT FLYING COMMUNITY OWNERS ASSOCIATION, INC., and taxed against DAVID CARL GOAD.

**OCT 28 2010**

SIGNED on \_\_\_\_\_.

**MICHAEL PEDEN**  
**JUDGE 295TH DIST. CT**

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JUDGE PRESIDING

Prepared By:

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