

FAX RECEIVED MAR 12 2024

IN THE CIRCUIT COURT OF ROBERTSON COUNTY, TENNESSEE AT SPRINGFIELD

PEPPER BLACK AND S. BRAD DOZIER,

Plaintiffs,

v.

THERESA BALDWIN,

Defendant.

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Case No.: 74CC1-2022-CV-247

FILED KRISTY A. CHOWNING, CLERK

APR 02 2024

AT 11 O'CLOCK A.M. BY A. Taylor-De

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION FOR TENN. CODE ANN. § 20-17-107(a)(2) SANCTIONS

This matter came before the Court for hearing on March 12, 2024, upon the Defendant's Motion for Tenn. Code Ann. § 20-17-107(a)(2) Sanctions. Upon consideration of the Defendant's motion, the Plaintiffs' response in opposition thereto, the arguments of counsel, and the entire record, the Court FINDS and ORDERS as follows:

Although there is no binding Tennessee appellate authority instructing the Court when to issue sanctions under Tenn. Code Ann. § 20-17-107(a)(2), the statute is straightforward. Further, persuasive authority from other Tennessee trial courts and from the states with anti-SLAPP statutes on which the Tennessee Public Participation Act is modeled guide the Court's analysis.

In determining the sanction to issue, the Court will consider the following non-exhaustive factors:

- a. the good faith or bad faith of the offender;
b. the degree of willfulness, vindictiveness, negligence, or frivolousness

- involved in the offense;
- c. the knowledge, experience, and expertise of the offender;
 - d. any prior history of sanctionable conduct on the part of the offender;
 - e. the reasonableness and necessity of the out-of-pocket expenses incurred by the offended person as a result of the misconduct;
 - f. the nature and extent of prejudice, apart from out-of-pocket expenses, suffered by the offended person as a result of the misconduct;
 - g. the relative culpability of client and counsel, and the impact on their privileged relationship of an inquiry into that area;
 - h. the risk of chilling the specific type of litigation involved;
 - i. the impact of the sanction on the offender, including the offender's ability to pay a monetary sanction;
 - j. the impact of the sanction on the offended party, including the offended person's need for compensation;
 - k. the relative magnitude of sanction necessary to achieve the goal or goals of the sanction; and
 - l. burdens on the court system attributable to the misconduct, including consumption of judicial time and incurrence of juror fees and other court costs[.]

See Landry's, Inc. v. Animal Legal Def. Fund, 566 S.W.3d 41, 71–72 (Tex. App.—Houston [14th Dist.] 2018), *aff'd in part, rev'd in part on other grounds*, 631 S.W.3d 40 (Tex. 2021).

Considering these factors, the Court determines that sanctions are necessary to deter repetition of the Plaintiffs' conduct. Many of the above factors support issuing sanctions. Plaintiff Dozier is an experienced attorney. He has a history of ethical misconduct for which he has been sanctioned, including a suspension from the practice of law and a public censure of which the Court has taken judicial notice. The Plaintiffs


have previously initiated litigation against the Defendant and engaged in questionable conduct toward the Defendant during the litigation of this case that appears vindictive. The Defendant has also introduced evidence of her need to incur substantial out-of-pocket expenses as a result of this litigation; the debt that she incurred to finance her defense; the difficult financial and emotional effects that this litigation had on her; and Plaintiff Black's ability to pay the sanction sought. The Court further considers that Plaintiffs sought \$3 million from the Defendant. The Court does not, however, find that the final factor, related to the burden on the courts and jurors, applies here.

For these reasons, the Defendant's *Motion for Tenn. Code Ann. § 20-17-107(a)(2) Sanctions* is GRANTED IN PART. The Court grants the Defendant's motion, but it does not grant the Defendant the amount she has sought. Instead, the Court finds that a sanction in the total amount of forty thousand dollars (\$40,000.00) is appropriate here. The sanction is entered jointly and severally against Plaintiffs Pepper Black and S. Brad Dozier. Thus, upon entry of this Order, a money judgment shall ENTER jointly and severally against the Plaintiffs, Pepper Black and S. Brad Dozier, in favor of the Defendant, Theresa Baldwin, in the amount of FORTY THOUSAND DOLLARS AND NO CENTS (\$40,000.00).

The Court DENIES the Defendant's request to apply the sanction to Plaintiffs' counsel.

IT IS SO ORDERED.

ENTERED this the 2 day of April, 2024.



 HON. ADRIENNE FRY
 CIRCUIT COURT JUDGE PART 1

APPROVED FOR ENTRY:

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CERTIFICATE OF SERVICE

I hereby certify that on this the 12th day of March, 2024, a copy of the foregoing was transmitted via hand-delivery, via the Court's electronic filing system, via USPS mail, and/or via email to the following parties or their counsel:

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