

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

**EOD**  
05/03/2023

IN RE:	§	
	§	
<b>DONALD R. TRIPLETT, JR.</b>	§	Case No. 19-42570
xxx-xx-8753	§	
	§	
Debtor	§	Chapter 7
<hr/>		
KEITH BLACK	§	
	§	
Plaintiff	§	
	§	
v.	§	Adversary No. 20-04057
	§	
DONALD R. TRIPLETT, JR.	§	
	§	
Defendant	§	
<hr/>		
RON VALK AND SHAWN VALK	§	
	§	
Plaintiffs	§	
	§	
v.	§	Adversary No. 20-04058
	§	
DONALD R. TRIPLETT, JR.	§	
	§	
Defendant	§	
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JEREMY HALTOM	§	
	§	
Plaintiff	§	
	§	
v.	§	Adversary No. 20-04059
	§	
DONALD R. TRIPLETT, JR.	§	
	§	
Defendant	§	

**OMNIBUS ORDER DENYING PLAINTIFFS'  
MOTIONS TO STRIKE AND FOR SANCTIONS**

ON this date, the Court considered the following motions filed by  
Plaintiffs in each of the above matters:

- 1) “Plaintiff’s Motion to Strike and Motion for Sanctions” filed  
by Plaintiff, Keith Black, in Case 20-4057 at dkt. #179;
- 2) “Plaintiff’s Motion to Strike and Motion for Sanctions” filed  
by Plaintiffs, Ron Valk and Shawn Valk, in Case 20-4058 at  
dkt. #204; and
- 3) “Plaintiff’s Motion to Strike and Motion for Sanctions” filed  
by Plaintiff, Jeremy Haltom, in Case 20-4059 at dkt. #181.

These filings are referred to collectively as the “Motions.” Plaintiffs’ target, David Stephan, objected to each of the Motions. The Court finds that the Court’s decision regarding the Motions would not be significantly aided by oral argument. The Motions seek to sanction Stephan for lying about his reason for attending the separate depositions of Plaintiff, Jeremy Haltom, and Plaintiff, Keith Black, alleging Stephan appeared posing as a creditor while secretly acting as an attorney representing Defendant, Donald R.

Triplett, Jr.<sup>1</sup> The Motions also request that Stephan's questions be struck from the deposition because they were intended by Stephan to gather information for one or more legal proceedings between the parties other than these adversaries.<sup>2</sup> For the following reasons, the Motions are denied.

#### A. Motion for Sanctions

The Motions ask the Court to sanction Stephan pursuant to its inherent power because he was secretly representing Debtor during the Black and Haltom depositions.<sup>3</sup> The Court's inherent power to sanction is "governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991). This inherent power arises only when litigation is instigated or conducted in bad faith or when the litigant "willfully abuse[s] judicial processes." *Breazeale v. Smith*, 857 F.2d 258, 261 (5th Cir. 1988). "The court must make a specific finding of bad faith" to impose sanctions under its

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<sup>1</sup> None of the Motions complain of Stephan's alleged duplicity at a deposition of Plaintiffs, Ron and Shawn Valk. Nevertheless, the Valks filed one of the Motions seeking to sanction Stephan in Adv. No. 20-4058 because of his attendance at depositions taken in Adv. Nos. 20-4057 and 20-4059, proceedings in which neither of the Valks are themselves parties.

<sup>2</sup> The parties to these proceedings have engaged in numerous and extensive litigation against one another, both in and out of bankruptcy court. How the Valks have standing to seek this relief is unclear.

<sup>3</sup> This Court has recognized its own inherent authority to sanction bad faith conduct. *See In re Lopez*, Nos. 21-10343, 21-10098, 21-10246, 2022 Bankr. LEXIS 1619, at \*10 (Bankr. E.D. Tex. 2022).

inherent power. *Toon v. Wackenhut Corrections Corp.*, 250 F.3d 950, 952 (5th Cir. 2001). “When bad faith is patent from the record and specific findings are unnecessary to understand the misconduct giving rise to the sanction, the necessary finding of ‘bad faith’ may be inferred.” *Sandifer v. Gusman*, 637 Fed. Appx. 117, 121 (5th Cir. 2015). The inherent powers of federal courts “must be exercised with restraint and discretion.” *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 764 (1980).

Plaintiffs allege Stephan’s bad faith can be inferred from the exhibits to the Motions.<sup>4</sup> Plaintiffs first assert that Stephan’s questions at the Black and Haltom depositions reveal he was lying about not representing Triplett and that the true reason for his participation was to collect information for outside cases.<sup>5</sup> Plaintiffs further allege Stephan admitted that he may invoice Triplett for his participation at the depositions and planned to later discuss the depositions with Triplett.<sup>6</sup> Finally, Plaintiffs argue Stephan conferred with Debtor’s counsel and made an objection on behalf of Debtor.<sup>7</sup>

After review, the Court does not find that bad faith is “patent from the record.” *Sandifer v. Gusman*, 637 Fed. Appx. 117, 121 (5th Cir. 2015).

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<sup>4</sup> These include deposition transcript excerpts.

<sup>5</sup> *Pl. Mot.*, Adv. No. 20-4057, ECF No. 179 at 19, Adv. No. 20-4058, ECF No. 204 at 19, Adv. No. 20-4059, ECF No. 181 at 19.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

Stephan, in his objections to the Motions, denies acting in bad faith and claims he was present only in his capacity as a creditor. This is presumably the same reason for Plaintiffs' presence at each other's depositions in their respective cases.<sup>8</sup> Plaintiff has provided insufficient substantive evidence to controvert this denial. Though Stephan's questions may be relevant to proceedings outside this Court, Plaintiff has not shown they are irrelevant to these proceedings. Stephan conferring with Triplett's counsel is similarly not patent bad faith. Stephan alleges the conversation concerned whether Plaintiffs could attend the Haltom and Black depositions "based on their status as creditors."<sup>9</sup> The Court fails to see how this inquiry warrants sanctions as requested.

The Court in its review of the exhibits attached by Plaintiffs to the Motions finds Stephan did not clearly object on behalf of Triplett. Instead, Stephan responded to an unusual situation in which Plaintiffs' counsel, Mr. Holmes, attempted to question Triplett during a deposition when Triplett was neither under oath nor the deponent.<sup>10</sup> Stephan's statement in context

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<sup>8</sup> For example, Exhibit E to Plaintiffs' Motions clearly demonstrates that Plaintiff, Shawn Valk, and Plaintiff, Keith Black were present at the deposition of Jeremy Haltom despite neither being a party to Adv. No. 20-4059 in which Haltom is the only named plaintiff. *See also Stephan's Obj.*, Adv. No. 20-4057, ECF No. 185 at 3-4, Adv. No. 20-4058, ECF No. 209 at 3-4, Adv. No. 20-4059, ECF No. 186 at 3-4.

<sup>9</sup> *Id.* at 4.

<sup>10</sup> "Mr. Holmes: Okay. I've got a couple of questions. But not – not really of Mr. Black. Mr. Triplett, is [Stephan] here representing you today? Mr. Mitchell: We're – we're not going to let you ask Mr. Triplett questions. Mr. Stephan: He's not – he's not under oath. He's not

does not appear to be an objection on behalf of Debtor, and in fact it was Triplett's counsel of record, Mr. Mitchell, who first responded to Holmes. Consequently, Stephan's bad faith is not patent from the record and the Court declines in these proceedings to find bad faith by inference.

## B. Motions to Strike

The Motions seek to strike certain questions asked by Stephan from the deposition transcripts under Fed. R. Civ. P. 12(f). Motions to strike are governed by Fed R. Civ. P. 12(f),<sup>11</sup> which authorizes a court to "order stricken from any *pleading* any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f) (emphasis added). The Court possesses great discretion in disposing of a Rule 12(f) motion to strike. *U.S. v. Coney*, 689 F.3d 365 (5th Cir. 2012). Motions to strike are strongly disfavored. *Pessin v. Keeneland Ass'n*, 45 F.R.D. 10, 13 (D.C. Ky. 1968)("Such motions are considered as time wasters and are not favored"); *Benham v. American Servicing Co.*, 2009 WL 4456386, \*8 (N.D. Cal. 2009) ("Motions to strike are regarded with disfavor because they are often used as delaying tactics"). Deposition transcripts are not among the documents identified as "pleadings" in Rule 7(a) and thus are not subject to a motion to

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the deponent." *Pl. Mot.*, Adv. No. 20-4057, ECF No. 179, Ex. B at 6, Adv. No. 20-4058, ECF No. 204, Ex. B. at 6, Adv. No. 20-4059, ECF No. 181, Ex. B at 6.

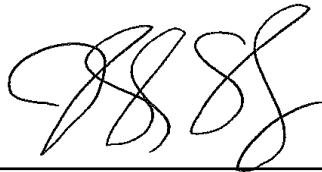
<sup>11</sup> Fed. R. Civ. P. 12(f) is applicable to this proceeding pursuant to Fed. R. Bankr. P. 7012(b).

strike.<sup>12</sup> Fed. R. Civ. P. 7(a) (listing “a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint . . . and a third-party answer” as pleadings); *see also Median v. Horseshoe Entertainment*, 2006 WL 2038057 at \*1 (W.D. La. July 19, 2006); *Pueblo of Jemez v. U.S.*, 2017 WL 6512230 at \* 4 (D. N.M. Dec. 19, 2017); *Holly v. U.S.*, 2009 WL 3029603 at \*2 (E.D. Okla. Sept. 17, 2009). Therefore, Plaintiffs’ Motions to strike must be denied.<sup>13</sup>

Accordingly, and for the reasons set forth herein, the Court finds that just cause exists for entry of the following Order.

**IT IS THEREFORE ORDERED** that the above-described Motions filed by Plaintiffs are hereby **DENIED**.

Signed on 05/03/2023



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THE HONORABLE JOSHUA P. SEARCY  
UNITED STATES BANKRUPTCY JUDGE

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<sup>12</sup> Fed. R. Civ. P. 7 is applicable to this proceeding pursuant to Fed. R. Bankr. P. 7007.

<sup>13</sup> Whether the portions of the deposition transcripts containing questions posed by Stephan are admissible or relevant, or indeed whether the transcripts themselves are admissible, is a matter to be determined at trial and is not here decided.