

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JANE DOE
Plaintiff,

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CIVIL ACTION NO. 4:16-CV-2133

**HARRIS COUNTY, TEXAS; and
TAYLOR ADAMS, Individually**
Defendants.

JURY TRIAL REQUESTED

HARRIS COUNTY’S RESPONSE TO PLAINTIFF’S “ADVISORY TO THE COURT”

Respectfully submitted,

OF COUNSEL:
VINCE RYAN



HARRIS COUNTY ATTORNEY

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**ATTORNEY FOR
HARRIS COUNTY, TEXAS**

HARRIS COUNTY’S RESPONSE TO PLAINTIFF’S “ADVISORY TO THE COURT”

TO THE HONORABLE JUDGE SIM LAKE:

Harris County, Texas comes before this Honorable Court and responds to Plaintiff’s June 23, 2020 “Advisory to the Court” and respectfully shows as follows:

**I.
PLAINTIFF FAILED TO COMPLY WITH THE COURT’S ORDER TO APPEAR FOR
A FULL DEPOSITION**

A. Plaintiff failed to fully comply with The Honorable Nancy Johnson’s order to appear for deposition on June 19, 2020, and Plaintiff’s case is subject to dismissal for want of prosecution.

As explained in Harris County’s Motion to Exclude Plaintiff’s Testimony (Doc. 105), Plaintiff demands \$16.75 million based on vague claims that she endured “recurring physical, mental, and emotional torture and mistreatment” by Harris County, that she was in “continuous” fights while in jail, and that she was “ostracized” as a rapist. Plaintiff has resisted discovery requests about these claims for the last four years. She refused to provide information about her alleged torture, or these alleged fights, and she claimed to be unable to answer interrogatories or 37 request for admissions on the ground that she lacked mental capacity.¹

Plaintiff repeatedly indicated to Dr. Joseph Penn, her counsel, and in discovery that she does not want to pursue this case.² Her counsel provided texts where she stated: “I told maissie

¹ Doc. 105 at 13; Doc. 105, Exhibit 7 (under seal) & Doc. 105, Exhibit 21 (under seal).

² For example, when Harris County asked Plaintiff to admit she did not want to pursue this case, she refused to either admit or deny “due to her current mental state.” A lawyer cannot pursue litigation against a client’s wishes (Doc. 105 at 15 & Doc. 105, Exhibit 7 (under seal)).

[Plaintiff's co-counsel] that **I wasn't doing another deposition.**" When Plaintiff's counsel informed her the case could not proceed without a deposition, she responded: "**All I'm saying is figure it out. I'm not doing another deposition...I've given you enough information for you guys to work the case. Period end of subject.**" Plaintiff eventually said: "**Bullshit That's a lie Don't force a person like me to do what they don't want to do I'm telling u Figure it out.**" Later, she said: "**Well I'm telling you I'm not doing another deposition there's plenty of evidence to prove the case hello its al over the news and paper so.**"³

After Plaintiff failed to appear for her first two depositions,⁴ Harris County sought the sanction of preventing her from offering testimony at trial.⁵ During a hearing on June 8, 2020,⁶ the Honorable Nancy Johnson did not go that far, but she ordered Plaintiff to appear for deposition in Houston on June 19, 2020. Judge Johnson clearly and unequivocally instructed Plaintiff's counsel during the hearing that if Plaintiff did not comply, Harris County would be entitled to move to dismiss for want of prosecution.

Plaintiff's lawyers knew their client needed to have adequate rest and proper medication to appear at the court-ordered deposition, and that her case would be dismissed if they failed to present her in good faith. Rather than bring her from her home in rural Oklahoma the day before

³ Doc. 105 at 14 & Doc. 105, Exhibit 22 (under seal).

⁴ To be fair, Plaintiff's counsel advised in advance that his client would not be attending, so this did not come as a surprise or result in unnecessary cost. The first cancelation resulted in the deposition being rescheduled. The second cancelation resulted in a certificate of non-attendance (Doc. 105 at 13-14) & Doc. 105, Exhibit 23 (under seal)).

⁵ Doc. 105.

the deposition and put her in a hotel so she would be rested and prepared, they subjected their client to a grueling eight hours of travel immediately prior to the deposition. They picked up her at 4 a.m., drove her an hour and a half to Tulsa, made her go through airport security during COVID-19, put her on a plane, and presented her—exhausted and possibly without proper medication—for deposition in Houston at noon.

After subjecting their client to this torment, counsel scheduled her return flight so early that—even under the best circumstances—she could only have finished about half of her scheduled seven hour deposition. Counsel would not change their client’s flight or allow her to stay in Houston to complete her deposition—**a clear violation of the Court’s order.**

B. Plaintiff had an amazing memory, accurately recalled specific dates of telephone calls, testified about the friends she made in jail, and admitted she was never “ostracized” as a rapist, as her lawyers claim.

Despite being dragged through an arduous morning of travel from Oklahoma for a deposition she did not want to attend, Plaintiff did very well. She had a good sense of humor and showed a remarkable ability to recall detailed facts.⁷ When counsel played recorded phone calls she had with her mother while in jail in 2015 and 2016, Plaintiff appropriately smiled, said she

⁶ Doc. 116.

⁷ The deposition transcript is not yet available. The discussion about Plaintiff’s testimony is based on counsel’s notes and recollection.

remembered the conversations, and then—amazingly—correctly identified (from memory) the exact dates she made each call.⁸

Plaintiff testified about her housing assignments in jail and the friends she made (particularly one woman named Tasha and another named Jennifer). She stated at deposition (just as she did in her phone calls with her mother) that she preferred to be in the general population with her friends, rather than the Mental Health Unit, which was more restrictive.

While her lawyers claim she was “ostracized” as a rapist, she disagreed. She testified that she always understood she had been brought to jail in 2015 because a judge feared she was going to flee the courthouse to avoid complying with a subpoena. She said the only time anyone suggested she might be accused of a crime was when a contract mental health staff misread a computer entry while interviewing her. Plaintiff explained that she knew this was a mistake, and that no inmates or guards believed she was accused of rape. This testimony is consistent with jail records, and directly conflicts with Plaintiff’s pleadings.⁹

C. Plaintiff recalled vivid details about hitting Officer Adams and apologized for doing so before her lawyers stopped the deposition over their own client’s objection.

As the deposition continued, it became very clear why Plaintiff’s counsel fought so hard to keep their client from testifying. Plaintiff admitted she was **not** “constantly” attacked in the jail

⁸ There are few people in the world who could listen to a recording of a phone call and correctly identify the date of the call five years later.

⁹ The only time Plaintiff appeared to significantly veer from reality is when she talked about a period of her life in 2012 (three years before she was in the Harris County Jail) when she believed she could control the weather and feared the world would end based on prophecies in the Mayan calendar.

as her lawyers allege. She corroborated jail records which establish that she got into only two altercations in 28 days. One altercation was with another inmate. After their disagreement, the jail kept the women separate, and Plaintiff has never seen or heard from her since.

The second altercation was with an officer. Plaintiff remembered the officer's name (Defendant Taylor Adams) and exactly what the officer looked like. She correctly testified that Officer Adams was African-American with fairly long, straight hair. Plaintiff accurately described Officer Adams' height and complexion, and she even remembered that Officer Adams had nice teeth.

Much to the chagrin of Plaintiff's lawyers, Plaintiff admitted under oath that her altercation with Officer Adams occurred as follows: (1) she was in her cell praying loudly to God (as she admits she often does), (2) Officer Adams asked her to come out of her cell, (3) she did not come out of her cell, (4) when Officer Adams came into the cell to retrieve her, she struck Officer Adams. On the record, Plaintiff apologized for hitting Officer Adams and admitted that she instigated the attack which led to the altercation.

At that point, Plaintiff's counsel stopped the deposition and refused to permit any further questions. Plaintiff began arguing with her lawyers and insisted that she be allowed to continue. Her lawyers forbid her from doing so and instructed the court reporter to stop taking notes. They then whisked Plaintiff back to Oklahoma. Despite agreeing to make her available remotely, Plaintiffs have backed out of their deal and refuse to present her to finish the deposition.

D. When Plaintiff accurately testified that she hit Officer Adams, her lawyers stopped the deposition (against their client’s wishes), whisked her back to Oklahoma, and concocted a claim that she was suffering from multiple personality disorder.

Plaintiff’s lawyers’ excuse for ending the deposition against their client’s wishes and refusing to reschedule is that they personally believe Plaintiff was suffering from multiple personality disorder (dissociative behavior) and having a “surreal, shocking” decompensation where she took on another personality.¹⁰ They base this on the fact that Plaintiff’s speech changed as the deposition wore on.¹¹ That is not surprising because: (1) Plaintiff was exhausted after being subjected to at least two hours of driving, two hours in an airplane, several hours in airports, and several hours at deposition and (2) during a break, Plaintiff took an unknown substance that made her extremely groggy. Plaintiff’s counsel acknowledged this pill was likely to blame, and they were frantically giving her coffee to stimulate her.

Given the circumstances, it is not surprising that Plaintiff was speaking quickly, and her voice appeared to have a foreign accent. What matters is that the substance of her testimony was accurate and consistent with the record evidence in this case. Plaintiff wanted to continue her testimony and should have been allowed to do so, but was prevented by her lawyers.

In an attempt to justify disobeying a court order to attend a deposition in good faith, Plaintiff’s counsel filed an “Advisory to the Court” claiming Plaintiff misbehaved on the trip

¹⁰ Doc. 120 at 2 and fn. 1.

¹¹ There is no dispute that Plaintiff’s speech changed several times during the deposition. While Plaintiff described this as a foreign accent, it also resembled someone whose speech is affected by a stimulant or depressant—both of which Plaintiff was apparently given.

back to Oklahoma. By the time she was hustled home, Plaintiff's lawyers had kept their client awake nearly 20 hours, sent her through enhanced COVID-19 airport security twice, forced her to sit in a car at least four hours, forced her to sit on planes at least three hours, presented her at deposition for several hours, and watched her consume unknown substances and large amounts of caffeine.

Rather than accept responsibility for a poorly executed deposition that was set up to fail, Plaintiff's counsel told the Court that the reason Plaintiff misbehaved is because: "she is fearful of being in Houston and being arrested again 'for no reason'"¹² and that this behavior was "a result of the trauma she experienced at the hands of Defendants."¹³ For Plaintiff's counsel to blame Harris County for their own failure to care for their client is outrageous. The Harris County Jail kept Plaintiff stable and properly medicated for 28 days, which permitted her to testify against her rapist. Plaintiff's counsel could not keep their client stable for 24 hours.

Plaintiff's "Advisory to the Court" does not absolve Plaintiff from their willful violation of Judge Johnson's Order. If anything, it makes it clear that Plaintiff's case should be dismissed for want of prosecution. At a minimum, Plaintiff's Advisory has introduced new topics upon which to depose Plaintiff.

¹² Doc. 120 at 1.

**II.
CONCLUSION**

Harris County files this document in response to Plaintiff's "Advisory to the Court." (Doc. 120). Plaintiff's advisory does not seek any particular relief. However, because Plaintiff's Advisory appears to be a justification for disobeying Judge Johnson's Order, Harris County wishes to correct the record and advise the Court of these additional facts.

Respectfully submitted,

OF COUNSEL:
VINCE RYAN

HARRIS COUNTY ATTORNEY



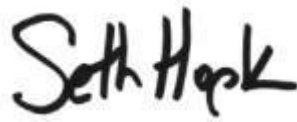
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¹³ Doc. 120 at 3.

CERTIFICATE OF SERVICE

I certify that on the 26th day of June, 2020, I electronically filed this document with the clerk of court using the CM/ECF system, which will send notification of such filing to all counsel of record. There are no non-registered participants.

A handwritten signature in black ink that reads "Seth Hopkins". The signature is written in a cursive, slightly slanted style.

Seth Hopkins