

CAUSE NO. 2021-CI-19940

OSCAR STILLEY	§	IN THE DISTRICT COURTS
<i>Plaintiff,</i>	§	
WPHDM, PhD.,	§	
<i>Plaintiff-Intervenor</i>	§	OF BEXAR COUNTY, TX
v.	§	
ALAN BRAID, MD,	§	
<i>Defendant.</i>	§	438th JUDICIAL DISTRICT

**PLEA IN INTERVENTION AND
PLEA TO THE JURISDICTION AS TO
COLLUSIVE LAWSUIT BY OUT-OF-STATE PLAINTIFF**

NATURE OF CASE: This is one of the first civil suits brought pursuant to Senate Bill 8, the **Texas Heartbeat Act** ("SB8" herein).

1. Plaintiff Oscar Stilley purports to sue Dr. Braid on the private cause of action created by SB8, and in doing so is making a mockery of the legal system of the Great State of Texas.

2. Intervenor, proceeding by his initials as WPHDM, PHD, for better protection of privacy, now files this pleading to challenge the propriety of Oscar Stilley bringing this suit.

3. As a former attorney, Stilley must have basic familiarity with the U.S. judicial system and its adversarial nature. It is readily apparent from his pleading and his public statements, however, that Stilley filed this action in bad-faith, if not as a joke. He actually represents the pro-choice side, which includes his contemptuous attitude toward life, "bastards", and believers in God.

4. There is no real case of controversy between Stilley and Dr. Braid. Rather than presenting to the court a bona-fide dispute as adversaries for the court to resolve, the Plaintiff and Defendant are aligned in their interests, beliefs, and litigation positions as to abortion and SB8. The absence of real controversy defeats subject matter

jurisdiction. Simply put, Stilley has pleaded himself out of court. Moreover, to allow Stilley to go forward and obtain a collusive judgment for its own sake, or for ulterior and collateral purposes, would contravene legislative intent. Simply put, the Act wasn't intended for court jesters like Stilley.

5. It is apparent from his pleading that Stilley also filed this lawsuit for an improper ancillary purpose. He casts himself as a publicity hog and knowingly and willfully endeavors to abuse the Texas judicial system to propagate grievances of a personal nature against the federal government. While such grievance-airing activity is likely protected by the First Amendment elsewhere, doing so here through the vehicle of a civil lawsuit constitutes an abuse of the Texas judicial system and an affront to judicial decorum. The Texas efile system simply isn't an all-purpose rant-dissemination platform.

6. Stilley additionally puts other individuals and organizations with an interest in litigating SB8 to establish or test its constitutionality in a bad light, which is one of the reasons that prompts the undersigned to intervene. Also see Texas Right to Life's response to Stilley's lawsuit (and its companion) in the media. Even more ominously, a collusive judgment and/or ensuing appeal may adversely affect litigants on the pro-life side of the docket, such as the first three intervenors in the *United States v. Texas* suit pending in federal court, and others like them. It is therefore even more important for someone from the other side of the partisan divide to intervene to prevent the Plaintiff and the Defendant from procuring a contrived judgment to the detriment of third parties who are not before this court, and cannot therefore do anything to assure integrity in the process. Even if such a judgment doesn't have legal effect on others, it could have adverse collateral effects, given the general media's failure to appreciate subtleties such as *res judicata*, collateral estoppel and the matter of who is bound by a judgment rendered by a trial and/or appellate court.

7. Unlike Stilley, Intervenor is a resident of Texas and sympathises with the pro-life movement, although there are points of disagreement with the litigation position taken by Texas Right to Life, the organization, in state and federal courts. Intervenor is a bona-fide person eligible to sue Defendant Braid for his self-confessed violation of SB8, while Plaintiff Stilley is not.

8. Intervenor will show that Dr. Braid's brazen public admission that he violated SB8 shortly after it entered into effect provides sufficient grounds for civil liability (admissible as a voluntary and public admission-against-interest) and for statutory

damages within the jurisdictional limits of this court as provided by the Act.

9. Additionally, since Defendant Dr. Braid broadcast his defiance of SB8 over the nation's media landscape so as to bait members of the public to sue him, he should be held equitably estopped from availing himself of the privilege to answer this lawsuit with a mere general denial as any other defendant would normally be entitled to do.

10. Pursuant to SB8, this case should be classified as a civil action for monetary relief between \$10,000 and \$200,000 plus non-monetary relief due to the apparently mandatory award of prospective injunctive relief in the case of a proven violation. That said, given the Defendant's advanced age (which can be inferred from his year of license acquisition), the propriety of and need for injunctive relief may be questionable.

RELIEF REQUESTED

11. The Court should strike Plaintiff Stilley's original petition ("Complaint") for lack of a real controversy and therefore for lack of standing, and can do so on its own motion. Intervenor intends to pursue a private SB8 action against Dr. Braid in the proper forum, which might turn out to be an MDL court, and is prepared to amend his live pleadings as may be warranted by further developments in this and related cases involving SB8.

11. In the alternative to dismissal for want of jurisdiction, the Court should strike Plaintiff Stilley's pleading as impertinent and require him to replead. Intervenor is prepared to file special exceptions per Rule 90 if necessary should the Court not dismiss Stilley's pleading for want of jurisdiction *sua sponte*.

September 22, 2021

Respectfully submitted,

WPHDM, PHD *)

/s/ Wolfgang P. Hirczy de Miño

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Intervenor

*) Please use initials in the amended case caption. Unlike Mr. Stillely, Intervenor is a serious academic person (with Ph. D. in Political Science) and not a media hog.

CERTIFICATE OF SERVICE

I hereby certify that I will serve all parties who have live pleadings before the court in this matter through the Texas eFile system upon filing this instrument with the clerk on September 22, 2021.

/s/ Wolfgang P. Hirczy de Miño

Wolfgang P. Hirczy de Mino, Ph.D.