

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO

TOM RETZLAFF	§	
Plaintiff,	§	
	§	
v.	§	
	§	NO: 5:08-CV-00170-OLG
LYNDA YVONNE DE LA VINA,	§	
DIANE BAKER WALZ, KYLE	§	
MERLETTE SNYDER, KATHERINE ANNE	§	
POPE,	§	
Defendants.	§	

**DEFENDANTS' MOTION FOR RELIEF FROM MEDIATION REQUIREMENT**

TO THE HONORABLE U.S. DISTRICT JUDGE ORLANDO L. GARCIA:

Defendants Lynda de la Vina, Diane Walz, Kyle Snyder, and Katherine Pope (the “Defendants”), named in their personal capacities by Plaintiff Tom Retzlaff, respectfully request relief from this Court’s mediation requirement under its Scheduling Order. Plaintiff Tom Retzlaff is a vexatious litigant who courts have restricted, most recently by Order signed and entered on October 15, 2008 by a Bexar County Judge. In light of this and other conditions, including Retzlaff’s declaration of improper purposes for conjuring the present lawsuit and other lawsuits against the University of Texas at San Antonio (UTSA) or its officials, Defendants seek relief from mediation.

**PROCEDURAL BACKGROUND AND RELEVANT FACTS**

1. By Scheduling Order filed June 12, 2008, “The parties shall mediate this case on or before **Wednesday, December 10, 2008**, unless the parties seek an order from the Court excusing them from mediation.” R. Item 2 at 2 ¶ 7.
2. Plaintiff Retzlaff has a lengthy history of pro se litigation calculated to harass and harm. Pending against UTSA or its officials, for example, are six law suits filed

by Retzlaff since November 2007. See R. Item 3 at 2-3 and 12 at 3-4 (summary of appearances in several of the lawsuits); *In re. Retzlaff*, No. 2008 CI 12347 (150th Dist. Ct., Bexar County, Tex.); and see R. Item 3-2 (Plaintiff describes litigation as his “hobby”); and R. Item 12-3 (Retzlaff writes: “. . . my filing lawsuits and dragging their asses into court and into depositions is a kind of therapy for me. It lets me work off my extreme hate that I have for these people in a manner that is both productive and beneficial to me.”).

3. Defendants are not the only targets of Retzlaff’s improper civil litigation. On October 15, 2008, one of these private defendants secured an *Order Declaring Tom Retzlaff a Vexatious Litigant*. R. Item 14-2. This Order followed a temporary order that protected the defendant and its legal counsel. R. Item 3-4. Under these conditions, alone, Defendants seek relief from the mediation requirement.
4. Additionally, Defendants would show that Plaintiff has failed to comply with a requirement of the Scheduling Order to file an ADR Report. And confusion still exists about the status of his representation in this case, all of which has precluded ordinary and reliable conference about this case and its discovery, and would likewise obstruct mediation. See R. Item 14.
5. Finally, Defendants ask that the scarce public resources available to their undersigned counsel be freed to address several other conflicting litigation obligations, as shown in Defendants’ Motion to Extend Dispositive Motion Deadline. R. Item 15 at 2-3.

6. Conference. By telephone calls to Louis D. Martinez's office on November 25, 2008, undersigned counsel for Defendants was not able to reach any available person.

**CONCLUSION**

For the foregoing reasons, Defendants move for relief from this Court's requirement that parties mediate this case on or before December 10, 2008.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served via facsimile transmission and U.S. Certified Mail, Return Receipt Requested, on November 25, 2008, to the following:

LOUIS D. MARTINEZ  
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\_\_\_\_\_/s/\_\_\_\_\_  
LARS HAGEN  
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