

CAUSE NO. _____

**ERIC DICK AND DICK LAW FIRM,
PLLC,**
Plaintiffs,

v.

**CLEAR BLUE INSURANCE
COMPANY,**
Defendant,

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IN THE DISTRICT COURT

____ **JUDICIAL DISTRICT**

HARRIS COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION FOR DECLARATORY RELIEF

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs, Eric Dick and Dick Law Firm, PLLC, and file this Original Petition for Declaratory Relief against Defendant, Clear Blue Insurance Company, and in support thereof respectfully state as follows:

Discovery Control Plan

Plaintiffs will conduct discovery under Level 2 pursuant to Rule 190.3 of the Texas Rules of Civil Procedure.

Rule 47(c) Statement

Pursuant to Rule 47c of the Texas Rules of Civil Procedure, Plaintiffs state that they seek only non-monetary relief in the form of declaratory and injunctive relief. Plaintiffs also seek recovery of reasonable attorney's fees as authorized by Section 37.009 of the Texas Civil Practice and Remedies Code.

Parties and Service

Plaintiff Eric Dick is an individual residing in Harris County, Texas. Plaintiff Dick Law Firm, PLLC is a Texas professional limited liability company with its principal place of business in Harris County, Texas.

Defendant, Clear Blue Insurance Company, is an insurance company engaged in the business of insurance in the State of Texas. Defendant may be served with process by serving its general manager, director or any other officer at B7 Calle Tabonuco, Suite 912, Guaynabo, Puerto Rico 00968-3346, or wherever they may be found. Plaintiff requests that citation be issued for service on Defendant immediately.

Jurisdiction and Venue

This Court has jurisdiction over this action because Plaintiffs seek declaratory and injunctive relief to resolve questions involving legal rights under the Texas Constitution, Texas statutes, and the United States Constitution. Venue is proper in Harris County because all parties reside or do business in this county and the events giving rise to this action occurred here.

Introduction and Nature of Action

This case arises from an extraordinary post-judgment sanctions order entered by the trial court in the Robbins litigation. Eric Dick and Dick Law Firm, PLLC served as counsel for the plaintiff in that case but were never named as parties. After granting Clear Blue Insurance Company's motions for summary judgment and sanctions, the trial court entered a final judgment on October 23, 2024, awarding \$25,034.50 in fees and sanctions. The court went further imposing a \$5,000 penalty for each and every post-judgment filing Plaintiffs might make, plus \$25,000 in automatic appellate fees if an appeal is pursued, regardless of outcome.

The order states: "if Plaintiff and/or his counsel files a Motion for New Trial or Findings of Fact and Conclusions of Law, or other post-judgment Motion, Clear Blue Insurance Company is entitled to recover \$5,000 for the costs incurred in attorney's fees related to each post-judgment motion Plaintiff files." This provision appeared for the first time in the court's final judgment, without having been requested, briefed, or argued by any party.

This extraordinary penalty transforms routine legal practice into financial Russian roulette.

- A motion to correct a clerical error: \$5,000.
- A notice of appeal to preserve rights: \$5,000.
- An emergency motion to stay execution: \$5,000.
- A motion for clarification: \$5,000.
- Filing a supersedeas bond: \$5,000.
- A notice of bankruptcy: \$5,000.
- Even responding to Defendant's own post-judgment motions: \$5,000.

Each of these routine and often necessary filings now carries an automatic penalty. The \$25,000 appellate penalty effectively prices Plaintiffs out of the appellate process entirely. With the appellate deadline now having passed, this declaratory action represents Plaintiffs' only avenue for relief.

Since the entry of this order, Plaintiffs have been trapped in an unconstitutional Catch-22: they cannot challenge the order without incurring the very penalties they seek to challenge. Defendant has already begun aggressive collection efforts based on this void order. Every day that passes compounds the constitutional injury to Plaintiffs' right to petition for redress of grievances, their right to due process, and their fundamental access to the courts.

When a trial court exceeds all bounds of its sanctioning authority, by imposing prospective penalties on future filings and creating insurmountable barriers to judicial review, the resulting orders are not merely erroneous; they are void ab initio. Because the trial court fundamentally exceeded its authority by imposing these prospective penalties, all monetary sanctions in the order, including the base \$25,034.50 award, are void and unenforceable. Plaintiffs seek a declaration of what the law compels: that the October 23, 2024 sanctions order is void and unconstitutional.

The Sanctions Order Is Void Ab Initio

A judgment is void when it is beyond the court's power to render. *Browning v. Prostok*, 165 S.W.3d 336, 346 (Tex. 2005). The October 23, 2024 sanctions order exceeded the trial court's authority in fundamental ways that render all monetary sanctions void.

Texas law strictly limits sanctions to "what is sufficient to deter repetition of the conduct." TEX. CIV. PRAC. & REM. CODE § 10.004(b). This limitation necessarily requires that sanctions address past conduct, not future filings. The trial court's imposition of automatic \$5,000 penalties on all future filings, regardless of their merit, necessity, or content, transforms the court's limited sanctioning power into an unlimited legislative power to impose filing fees. No Texas statute authorizes such prospective penalties.

The prospective nature of these sanctions represents a fundamental departure from established law. Sanctions must be based on specific conduct that has already occurred, not on speculation about future filings. By imposing blanket penalties on all future filings without regard to their content or purpose, the trial court exceeded any conceivable grant of judicial authority.

Because the trial court exceeded its authority by including these void prospective penalties, the entire sanctions analysis is tainted. The court's willingness to impose unauthorized prospective penalties demonstrates a fundamental misunderstanding of its sanctioning authority that infects the entire order. Accordingly, all monetary sanctions in the order, including the \$25,034.50 base award, are void ab initio.

Constitutional Violations

The sanctions order violates multiple constitutional provisions, creating ongoing harm to Plaintiffs that compounds daily.

The \$5,000 per-filing penalty directly burdens the fundamental right to petition courts for redress of grievances protected by the First Amendment. *BE&K Const. Co. v. NLRB*, 536 U.S. 516, 524 (2002). By imposing automatic financial penalties on protected petitioning activity, the order constitutes an unconstitutional prior restraint on access to courts. The right to petition encompasses not just initial lawsuits but all filings necessary to vindicate legal rights, including post-judgment motions and appeals. A blanket \$5,000 penalty on every filing, regardless of merit, necessity, or content, chills the exercise of this fundamental right.

The prospective penalties also constitute excessive fines under the Eighth Amendment. A \$5,000 automatic penalty for any filing, including routine ministerial acts like filing a notice or a one-page motion, is grossly disproportional to any legitimate governmental interest. The penalty bears no relationship to actual harm, costs incurred, or the nature of the filing. It serves only to punish and to prevent access to courts, not to compensate for any injury or deter specific misconduct.

The order violates the Due Process Clause by creating an automatic deprivation of property without any opportunity to be heard on the merits of the specific filing. Each filing triggers an immediate \$5,000 debt without any judicial review of whether that particular filing was frivolous, meritorious, or even required by law. This automatic penalty system denies the fundamental requirement that deprivations of property be preceded by notice and opportunity for hearing appropriate to the nature of the case.

The sanctions provisions also violate Article I, Sections 13, 19, and 27 of the Texas Constitution, which protect the right to remedy by due course of law, due process, and the right to petition. These provisions offer independent protections for access to courts and prohibit the erection of financial barriers that effectively deny judicial remedies.

Continuing and Compounding Harm

Every day this order remains in effect, Plaintiffs suffer irreparable constitutional injury. They cannot file routine motions to protect their rights without incurring crushing penalties. They cannot pursue any post-judgment remedies without triggering \$5,000 penalties per filing. They cannot even respond to Defendant's own filings without risking financial ruin. Their ability to practice law and represent future clients is chilled by the threat of similar sanctions. They face immediate collection efforts on a void judgment while being financially prohibited from challenging it.

This Catch-22, where challenging the order triggers the very penalties being challenged, creates an unconstitutional procedural trap that denies Plaintiffs any meaningful remedy. The harm is not speculative but real and ongoing. Defendant has already begun collection efforts, and Plaintiffs must choose between abandoning their rights or facing financial destruction.

Declaratory Relief is the Only Available Remedy

With the appellate deadline having passed, Plaintiffs cannot pursue traditional appellate remedies. Even if the deadline had not passed, the \$25,000 appellate penalty would make such relief financially impossible. Plaintiffs cannot file any motion in the underlying case without triggering additional \$5,000 penalties. Only through this independent declaratory action can Plaintiffs obtain relief without incurring additional sanctions. This Court has both the power and duty to declare void what is void.

Requested Declarations

Plaintiffs seek judicial declarations under Chapter 37 of the Texas Civil Practice and Remedies Code that all portions of the October 23, 2024 order imposing monetary sanctions, attorney's fees, or financial obligations against Eric Dick and Dick Law Firm, PLLC are void ab initio because the trial court exceeded its authority by imposing prospective filing penalties without statutory basis. The \$5,000 per-filing penalty and \$25,000 appellate fee provision violate the First, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution as unconstitutional prior restraints, denials of due process, and excessive fines. The prospective sanctions provisions violate separation of powers by creating filing fees without legislative authorization. The sanctions provisions violate Article I, Sections 13, 19, and 27 of the Texas Constitution. All monetary awards against Eric Dick and Dick Law Firm, PLLC in the October 23, 2024 order are void and unenforceable.

Injunctive Relief

To prevent ongoing constitutional violations and irreparable harm, Plaintiffs seek a permanent injunction enjoining Clear Blue Insurance Company from enforcing or attempting to enforce any portion of the October 23, 2024 sanctions order, requiring the immediate release and cancellation of any liens, abstracts of judgment, or collection proceedings based on the void order, and prohibiting any further collection efforts based on the unconstitutional sanctions.

Attorney's Fees

Plaintiffs seek recovery of attorney's fees pursuant to Section 37.009 of the Texas Civil Practice and Remedies Code and any other applicable law.

Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiffs Eric Dick and Dick Law Firm, PLLC respectfully request that the Court:

1. **DECLARE** that all portions of the October 23, 2024 order imposing monetary sanctions, attorney's fees, or financial obligations against Eric Dick and Dick Law Firm, PLLC are **VOID AB INITIO**
2. **DECLARE** that the prospective penalty provisions violate the United States and Texas Constitutions
3. **PERMANENTLY ENJOIN** Defendant Clear Blue Insurance Company from enforcing any portion of the void sanctions order
4. **ORDER** the immediate release of all liens, abstracts, and collection efforts
5. **AWARD** Plaintiffs their reasonable attorney's fees and costs
6. **GRANT** all other relief to which Plaintiffs may be justly entitled

Dated: June 12, 2025

Respectfully Submitted,

/s/ Eric Dick

Eric B. Dick

TBN: 24064316

FIN: 1082959

DICK LAW FIRM, PLLC

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Houston, Texas 77092

(844) 447-3234 - Office & Facsimile

eric@dicklawfirm.com

www.dicklawfirm.com

ATTORNEY FOR PLAINTIFFS

CIVIL PROCESS REQUEST

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING
FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

CASE NUMBER: _____ CURRENT COURT: _____

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): Original Petition

FILE DATE OF MOTION: _____
Month/ Day/ Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: Clear Blue Insurance Company

ADDRESS: B7 Calle Tabonuco, Suite 912, Guaynabo, Puerto Rico 00968-3346

AGENT, (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): Citation

SERVICE BY (check one):

☐ ATTORNEY PICK-UP ☐ CONSTABLE

☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____

☐ MAIL ☐ CERTIFIED MAIL

☐ PUBLICATION:

Type of Publication: ☐ COURTHOUSE DOOR, or

☐ NEWSPAPER OF YOUR CHOICE: _____

☒ OTHER, explain PLEASE SEND CITATION TO ATTORNEY AT VIA EMAIL OR MAIL AT: ERIC@DICKLAWFIRM.COM

2. NAME: _____

ADDRESS: _____

AGENT, (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

SERVICE BY (check one):

☐ ATTORNEY PICK-UP ☐ CONSTABLE

☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____

☐ MAIL ☐ CERTIFIED MAIL

☐ PUBLICATION:

Type of Publication: ☐ COURTHOUSE DOOR, or

☐ NEWSPAPER OF YOUR CHOICE: _____

☐ OTHER, explain _____

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: ERIC B DICK TEXAS BAR NO./ID NO. 24064316

MAILING ADDRESS: 3701 BROOKWOODS DRIVE, HOUSTON, TX 77092

PHONE NUMBER: 832 207-2007 FAX NUMBER: _____
area code phone number area code fax number

EMAIL ADDRESS: ERIC@DICKLAWFIRM.COM

EXHIBIT A:

NOTICE OF VACATION DESIGNATION:

Please be advised that I am designating the following weeks as my vacation period:

2025

November 2 – November 8, 2025
November 9 – November 15, 2025
November 30 – December 6, 2025
December 7 – December 13, 2025

2026

November 1 – November 7, 2026
November 8 – November 14, 2026
November 29 – December 5, 2026
December 6 – December 12, 2026

2027

October 31 – November 6, 2027
November 7 – November 13, 2027
December 5 – December 11, 2027
December 12 – December 18, 2027

2028

November 5 – November 11, 2028
November 12 – November 18, 2028
December 3 – December 9, 2028
December 10 – December 16, 2028

2029

November 4 – November 10, 2029
November 11 – November 17, 2029
December 2 – December 8, 2029
December 9 – December 15, 2029

I would respectfully request that no hearing and/or trial be scheduled during this period.

By copy of this letter, I am requesting counsel of record refrain from scheduling any depositions, meetings, or other activities during this period as well.

Respectfully Submitted,



Eric B. Dick, LL.M.

TBN: 24064316

FIN: 1082959

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ATTORNEY FOR PLAINTIFF

Unofficial Copy Office of Marilyn Burgess District Clerk