IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF ARKANSAS WESTERN DIVISION

ARTHUR CARSON

PLAINTIFF

v.

No. 4:11-cv-733-DPM

ELNORA THOMPSON and HOSEA THOMPSON

DEFENDANTS

ORDER

Motions for sanctions, *Document Nos. 37 & 38*, denied considering all material circumstances. The Court appreciates Hosea's verified responses to the interrogatories. *Document No.* 45. Elnora's verified responses to prior interrogatories due by 29 September 2012. The Court misspoke in its recent order, *Document No.* 41, about the Thompsons' counterclaims. They are affirmative defenses, not counterclaims.

The parties must file simultaneous briefs answering these questions on 3 October 2012.

- Does Carson have standing to assert his four claims? See e.g., Braden v. Wal-Mart Stores, Inc. 588 F.3d 585, 591 (8th Cir. 2009).
- **2.** Does the dismissal with prejudice of what appear to be identical claims in the earlier Texas case, *Document No. 18 at 14*, preclude their

re-litigation here even though the Texas case was apparently later dismissed without prejudice for want of prosecution? See e.g., Collins v. City of Corpus Christi, 188 S.W.3d 415, 423 (Tex. App. 2006).

3. If the case remains alive, should it be transferred to a District Court in Texas under 28 U.S.C. § 1404?

So Ordered.

D.P. Marshall Jr.

United States District Judge

20 september 2012