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STATE OF OHIO, COUNTY OF BELMONT
COURT OF COMMON PLEAS

COMMON PLEAS COURT
BELMONT CO. OH

2023 JUL 20 PM 2:22

Village of Shadyside, Ohio, et al.
Plaintiffs

Case No.: 22 CV 356
SYNTHIA L. FREGIATO
CLERK OF COURT

Vs.

Date of Entry: July 19, 2023

Greg Givens, et al.
Defendants

JUDGEMENT JOURNAL ENTRY

On March 29, 2023, a Status Conference was held, wherein this Court ordered that this matter be bifurcated, to first proceed on the issue pertaining to the Designation of Defendants, Greg Givens and Carol Givens, as Vexatious Litigators pursuant to R.C. §2323.52, and that Defendants Counterclaims be stayed pending said determination.

This matter now comes before the Court on Plaintiffs' Motion for Summary Judgment to Designate Defendants, Greg Givens and Carol Givens to be Vexatious Litigators pursuant to Ohio Revised Code §2323.52, and to impose upon them all sanctions and restrictions set forth in said statute.

The Court has considered Plaintiffs' Motion, Memorandum in Support, Affidavit of Attorney Jonathon Powell, attached Exhibit A (Chart of Court Documents, and Exhibit B (copy of Judgment Entry of the Belmont County Court of Common Pleas in Case No. 22-CV-336 Declaring Greg Givens to be Vexatious Litigator filed on May 8, 2023) and remaining Exhibits C through W); the Response of Defendant Carol Givens, filed May 3, 2023; Plaintiffs' Reply, filed June 2, 2023, Complaint, Defendants' Answers, and the record herein.

It must be noted at this juncture, that this Court, on May 11, 2023, overruled a Motion of Defendant, Greg Givens, for Permission to File a Pleading, based upon Judicial Notice, pursuant to Civ. R. 44.1(A)(1), of the decision in the Judgment Entry of the Honorable Emmett O'Farrell, issued on April 20, 2023, in the case titled, Kevin Flanagan, Prosecutor, Belmont County Prosecutor's Office vs. Greg P. Givens, Case No. 22-CV-336, wherein

Greg P. Givens was previously determined to be a Vexatious Litigator pursuant to R.C. §2923.53(A)(3). This Court, having considered the decision in said Judgment Entry, finds that it constitutes a prior, final order of the Belmont County Common Pleas Court, which is also in accord with the following Findings, and which reaffirms this Court's Decision that Defendant, Greg Givens, is a Vexatious Litigator in accord with R. C. §2323.52, and he is, therefore, prohibited from continuing any litigation that he has instituted in any Court, without leave from that Court to proceed.

This Court's decision is in accord with Mayer v. Bristow, 91 Ohio St.3d. 740 (2000), wherein the Ohio Supreme Court affirmed that R.C. §2323.52 constitutes a rational policy to force a Vexatious Litigator into a single forum for preliminary review in order to assure the application of due process and access to courts pursuant to the Ohio Constitution. Mayer, 91 Ohio St.3d at 12, 13, 24, and 15.

In accord with Civ.R.56(C) this Court makes the following Findings: Defendant, Carol Givens, in her Response to the Motion for Summary Judgment, is required to set forth specific facts, by submitting evidentiary material permitted by Civ.R. 56(C), in order to demonstrate that genuine issues of material facts exist to be determined at trial. Dresher v. Burt, 75 Ohio St.3d 280, (1996). However, her Response, filed Mary 30, 2023, has merely expressed disagreement with the facts set forth by Plaintiffs' Affidavit of Attorney, Jonathon Powell; Exhibits A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, and W; and has otherwise alleged unsupported, conclusory assertions as to her rights under the Federal and Ohio Constitutions and the law in this case. She has, therefore, failed to establish sufficient facts to demonstrate genuine issues for trial pertaining to the issue of Vexatious Litigator. Greaney v. Ohio Tpk. Comm'n, 2005-Ohio-5284, *P21 (11th App.Distr., 2005); White v. Sears 2011-Ohio-204 *P9 (10th App.Dist., 2011).

Although Greg Givens was not permitted to respond as a result of Judge O'Farrell's decision which ordered that he be declared a Vexatious Litigator, Plaintiffs' evidence clearly establishes, pursuant to the required objective standard to be applied by this Court (*Prime Equip. Grp., Inc. v. Schmidt*, 2016-Ohio-3472, ¶41), that Greg Givens' Answer and Counterclaims mirror exactly the same unsupported, conclusory assertions as those contained in Carol's Answer and Counterclaims, and are, therefore, subject to the same interpretation by this Court.

Pertaining to the single issue of Declaring Defendants, Greg Givens and Carol Givens, to be Vexatious Litigators, in accord with the order of bifurcation, this Court finds that, upon a thorough review of the evidence to be considered under Civ. R. 56(C), reasonable minds can come to but one conclusion as to the claims in Plaintiffs' Complaint against Defendants, Greg Givens and Carol Givens, and that conclusion is adverse to said Defendants, the Court having construed said evidence most strongly in their favor. The Court further finds that no genuine issue as to any material fact exists relative to Plaintiffs' claim under R.C. §2323.52 against Greg Givens and Carol Givens.

More specifically, the Court finds, that the affidavit of Attorney Jonathan Powell, and the uncontroverted, attached Exhibit A, (List of various litigations and outcomes, involving Greg Givens and Carol Givens in State and Federal Courts), Exhibit B, (Judgment Entry in Belmont County Common Pleas Case No. 22 CV 336 Declaring Greg Givens to be a Vexatious Litigator), as well as Exhibits C through W, presented by Plaintiffs, pursuant to Civ.R. 56(C), constitute uncontroverted evidence which clearly establish that Defendants, Greg Givens and Carol Givens, habitually, persistently and, without reasonable grounds, instituted, or were involved in up to seventy (70) separate civil, domestic, and criminal actions in the Common Pleas Court, County Courts, Courts of Appeal, as well as various

Federal Courts as *pro se* litigants and that, the nature of their conduct herein, as well as prior conduct in multiple cases (*Prime*, at ¶40, and *Davie v. Nationwide Ins. Of Am.*, 2017-Ohio-7721), clearly establish each of them to be a Vexatious Litigator.

Further, the Court finds that approximately fifty (50) of the above-mentioned civil cases, including this proceeding, were not warranted under existing law and could not be supported by a good faith argument for an extension, modification, or reversal of existing law; but rather served merely to harass or maliciously injure the other persons to the actions and/or appeals; and were filed and pursued solely to harass or delay. *Helfrich v. Madison*, 2012-Ohio-551, 2012, Ohio App. LEXUS 6484 (Ohio Ct. App., Licking County 2012).

The Court further finds that the filing and prosecution of the numerous, meritless civil actions and Appeals against multiple defendants, as such are listed in Plaintiffs' exhibit B, which include uncontroverted references to court dockets, pleadings, and dispositions, clearly establish that the evidence herein constitute vexatious conduct, as a matter of law, by application of the required objective standard under R.C. §2323.52(A)(2)(a)(b)(c). *Buoscio v. Macejko*, 7th Dist. Mahoning County, 00-CA-00138, 2003-Ohio-689; *Prime Equip. Grp., Inc. v. Schmidt*, 2016-Ohio-3472, 66 N.E.3d 305, (10th Dist.). See also, *Davie v. Nationwide Ins. Co. of Am.*, 2017-Ohio-7721 (A vexatious litigator claim may be supported by evidence of the vexatious litigator's conduct in other actions to which the person bringing the claim is not a part.)

In accord with the above-stated findings, it is, therefore, **Adjudged and Decreed that Plaintiffs are entitled to Summary Judgment, as a matter of law, and that Defendants, Greg Givens and Carol Givens, are declared Vexatious Litigators pursuant to R.C. §2323.52 and are subject to all sanctions and restrictions provided by law. See, R.C. §2323.52(A)(B)(C)(D); *Mayer v. Bristow*, 91 Ohio St.3d 3 (2000).**

The Court further Orders that the Clerk of Courts shall immediately transmit a certified copy of this Judgment Entry to the Ohio Supreme Court as required under R.C. §2323.52(H).

In accord with Civ.R. 54(B), the Court also finds that the granting of Summary Judgment Declaring Defendants, Greg Givens and Carol Givens, to be Vexatious Litigators in accord with R.C. §2323.52(A)(B)(C)(D) constitutes Final and Appealable Orders and that Final Judgment has now been entered as to one, but fewer than all the claims of the parties, and that, therefore, there is no just reason for delay of Appeal. Civ.R. 54(B); Lehtinen v. Drs. Lehtinen Mervart & West, Inc., 99 Ohio St.3d 69, 2003-Ohio-2574.

Upon the consideration of Defendants' pending Counterclaims (Second Bifurcated Issues), this Court has carefully reviewed the specific language in the allegations in each Counterclaim, filed by Greg Givens and Carol Givens, and finds said language, in each Counterclaim, which pertains to alleged violations of each Defendant's Constitutional Rights (Federal and State) and/or violation of Ohio law, are virtually identical. The Court's review also suggests that certain language in said Counterclaims I thru VII is unintelligible and may fail to allege material facts, upon which reasonable inferences can be drawn in favor of said Defendant that may entitle them to relief (Civ.R. 12(C); Carter-Jones Lumber Co. v. JCA Rentals, LLC, 7th Dist. Mahoning No. 12MA56, 2013-Ohio-863 (Mar. 8, 2013); State ex rel. Midwest Pride IV v. Pontious, 75 Ohio St.3d 565); or that a determination of an actual controversy exists, or that Defendants have failed to assert any statement of facts in support of said Counterclaims that would entitle them to relief. Kincaid v. Erie Ins. Co., 128 Ohio St.3d 322. Therefore, this Court, out of an abundance of caution, but with the intent to establish the fair determination of this issue, shall entertain a Motion for Judgment on the Pleadings, in accord with Civ.R. 12(C).

Therefore, it is hereby Ordered that Plaintiffs/Counterclaim Defendants shall file a Motion for Judgment on the Pleadings addressing the allegations in Defendants' Counterclaims not later than August 19, 2023.

Defendant and Counterclaim Plaintiff, Carol Givens, shall respond not later than September 21, 2023.


Defendant, Greg Givens, is not permitted to file an additional response, in accord with the Judgment and Order of the Belmont County Common Pleas Court, in Case No. 22-CV-336, on April 20, 2023, and this Court's previous denial of Greg Givens' further participation by entry dated, May 11, 2023.

Plaintiffs/Counterclaim/Defendants shall file their Reply, if any, not later than September 28, 2023.

The pre-trial conference scheduled on August 14, 2023, is hereby cancelled pending disposition of Defendants' Motion for Judgment on the Pleadings.

Likewise, additional Orders, pursuant to R.C. §2323.52(D), as the result of the Findings of this Court, Declaring Defendants, Carol Givens and Greg Givens to be Vexatious Litigators, are deferred pending disposition of the pending Motion for Judgment on the Pleadings.

All subject further order of the Court.



Judge John M. Solovan, II, Retired
Belmont County Court of Common Pleas
(Sitting by Assignment 23-JA-1034)

JMS/bsw

pc: *Erik A. Schramm, Esq. and/or Kyle W. Bickford, Esq.*, Attorney for Plaintiffs
Bradley A. Powell, Esq., Attorney for Defendant John Longwell
Michelle Winiesdorffer-Schirippa, Esq., Attorney for Defendant John Longwell
Greg Givens, pro se Defendant
Carol Givens, pro se Defendant