

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

SANDRA KURT

2023 JUL 18 PM 12:56

SUMMIT COUNTY
CLERK OF COURTS

EVE BELFANCE, DIRECTOR OF LAW

Plaintiff

vs.

JOEL HELMS

Defendant

CASE NO. CV 2022-04-1099

**JUDGE JOSEPH GIBSON
(Sitting by Assignment)**

ORDER

Plaintiff Eve Belfance, Director of Law for the City of Akron (“Belfance”), filed a complaint against Defendant Joel Helms (“Helms”), seeking to have Helms declared to be a vexatious litigator. This action is brought pursuant to R.C. 2323.52. Belfance asserts that Helms, acting pro se, has repeatedly engaged in litigious activities against the city of Akron, its departments, agents, employees in the Ohio Supreme Court, the Ninth Judicial District Court of Appeals, the Court of Common Pleas of Summit County, and the Akron Municipal Court.

Belfance requests that Helms 1) be declared a vexatious litigator pursuant to R.C. 2323.52; 2) that he be enjoined be enjoined indefinitely from instituting, pro se, any legal proceedings in a court of common pleas, municipal court, court of claims, or county court without first obtaining leave from the court pursuant to R.C. 2323.52(D)(1)(a) and (E); 3) that he be enjoined indefinitely from continuing any legal proceedings in a court of common pleas, municipal court, court of claims, or county court that he, acting pro se, has instituted prior to the entry of the order, pursuant to R.C. 2323.52(D)(1)(b); 4) that he be enjoined from making any applications, acting pro se, other than an application for leave to proceed, in any legal proceedings instituted by him in the Ohio Supreme Court, a court of common pleas, municipal court, court of claims, or county court pursuant to R.C. 2323.52(D)(1)(c); and 5) that he be

required to obtain leave of court before he is permitted to file pleadings in the Summit County Court of Common Pleas pursuant to R.C. 2323.52(D)(3).

On May 15, 2023, Belfance filed a motion for summary judgment. After having been granted leave to respond to the motion by June 18, 2021, Helms filed his response on June 15, 2023, and an amended response on June 16, 2023. On June 18, 2023, in spite of the court having indicated in its order granting leave that no further extensions would be granted, Helms requested another extension of time. The court deems that motion to be moot, as Helms did respond within the time granted. Belfance filed a reply brief on June 22, 2023. The court considers that matter fully submitted.

Civ.R. 56(C) provides in part: Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule.

In applying this standard, evidence is construed in favor of the nonmoving party, and summary judgment is appropriate if reasonable minds could only conclude that judgment should be entered in favor of the movant nonetheless. *Norton v. Harwick Chem. Corp.*, 73 Ohio St.3d 679, 686-87, 1995 Ohio 286, 653 N.E.2d 1196, (1995).

Price v. Matco Tools, Inc., 9th Dist. Summit No. 23583, 2007-Ohio-5116, at ¶23.

Pursuant to Civ.R. 56(C), summary judgment is appropriately rendered when ‘(1) [n]o genuine issue as to any material fact remains to be litigated; (2) the moving party is entitled to judgment as a matter of law; and (3) it appears from the evidence that reasonable minds can come to but one conclusion, and viewing such evidence most strongly in favor of the party against whom the motion for

summary judgment is made, that conclusion is adverse to that party.' *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317, 327, 4 O.O.3d 466, 472, 364 N.E.2d 267, 274.

Turner v. Turner, 67 Ohio St.3d 337, 339-340, 617 N.E.2d 1123, (1993).

The moving party "bears the initial burden of informing the trial court of the basis for the motion, and identifying those portions of the record that demonstrate the absence of a genuine issue of material fact on the essential element(s) of the nonmoving party's claims." *Vahila v. Hall*, 77 Ohio St.3d 421, 429, 1997-Ohio-259, 674 N.E.2d 1164, quoting *Dresher v. Burt*, 75 Ohio St.3d 280, 293, 1996-Ohio-107, 662 N.E.2d 264. The nonmoving party then has a reciprocal burden to set forth specific facts, by affidavit or as otherwise provided by Civ.R. 56(E), which demonstrate that there is a genuine issue for trial. *Byrd v. Smith*, 110 Ohio St.3d 24, 2006-Ohio-3455, at ¶10, 850 N.E.2d 47.

Price, at ¶24. The non-moving party may not rest upon the mere allegations or denials in the pleadings, but must point to or submit some evidence that shows the existence of a genuine dispute over the material facts. *Mitseff v. Wheeler*, 38 Ohio St.3d 112, 115, 526 N.E.2d 798 (1988).

R.C. 2323.52, Ohio's vexatious litigator statute, provides in pertinent part as follows:

(A) As used in this section:

(1) 'Conduct' has the same meaning as in section 2323.51 of the Revised Code.

(2) 'Vexatious conduct' means conduct of a party in a civil action that satisfies any of the following:

(a) The conduct obviously serves merely to harass or maliciously injure another party to the civil action.

(b) The conduct is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.

(c) The conduct is imposed solely for delay.

(3) 'Vexatious litigator' means any person who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions, whether in the court of claims or in a court of common pleas, municipal court, or county court, whether the person or another person instituted the civil action or actions, and whether the vexatious conduct was against the same party or against different parties in the civil action or actions. 'Vexatious litigator' does not include a person who is authorized to practice law in the courts of this state under the Ohio Supreme Court Rules for the Government of the Bar of Ohio unless that person is representing or has represented self pro se in the civil action or actions.

(B) A person, the office of the attorney general, or a prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a municipal corporation who has defended against habitual and persistent vexatious conduct in the court of claims or in a court of common pleas, municipal court, or county court may commence a civil action in a court of common pleas with jurisdiction over the person who allegedly engaged in the habitual and persistent vexatious conduct to have that person declared a vexatious litigator. The person, office of the attorney general, prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a municipal corporation may commence this civil action while the civil action or actions in which the habitual and persistent vexatious conduct occurred are still pending or within one year after the termination of the civil action or actions in which the habitual and persistent vexatious conduct occurred.

(C) A civil action to have a person declared a vexatious litigator shall proceed as any other civil action, and the Ohio Rules of Civil Procedure apply to the action.

(D)(1) If the person alleged to be a vexatious litigator is found to be a vexatious litigator, subject to division (D)(2) of this section, the court of common pleas may enter an order prohibiting the vexatious litigator from doing one or more of the following without first obtaining the leave of that court to proceed:

- (a) Instituting legal proceedings in the court of claims or in a court of common pleas, municipal court or county court;
- (b) Continuing any legal proceedings that the vexatious litigator had instituted in the court of claims or in a court of common pleas, municipal court, or county court prior to the entry of the order;
- (c) Making any application, other than an application for leave to proceed under division (F) of this section, in any legal proceedings instituted by the vexatious litigator or another person in the court of claims or in a court of common pleas, municipal court, or county court.

R.C. 2323.52 grants authority to the court of common pleas to order a vexatious litigator to obtain its leave before proceeding in the Court of Claims, a

court of common pleas, municipal court, or county court. A court of common pleas has no authority under R.C. 2323.52, or pursuant to its own inherent powers to prevent abuse of the judicial process or to restrict the activities of a vexatious litigator in courts other than these specifically enumerated Ohio trial courts.

Mayer v. Bristow (2000), 91 Ohio St.3d 3, paragraph two of the syllabus. Furthermore, the Ohio Supreme Court has found the vexatious litigator statute to be constitutional. *Id.* paragraph one of the syllabus.

The purpose of the vexatious litigator statute is clear. It seeks to prevent abuse of the system by those persons who persistently and habitually file lawsuits without reasonable grounds and/or otherwise engage in frivolous conduct in the trial courts of this state. Such conduct clogs the court dockets, results in increased costs, and oftentimes is a waste of judicial resources -- resources that are supported by the taxpayers of this state. The unreasonable burden placed upon courts by such baseless litigation prevents the speedy consideration of proper litigation.

Mayer, at 13. The *Mayer* court further held that the statute “establishes a screening mechanism under which the vexatious litigator can petition the declaring court, on a case-by-case basis, for a determination of whether any proposed action is abusive or groundless.” *Mayer*, at 14. And finally, “[t]hus, R.C. 2323.52(F) provides that the court of common pleas is precluded from granting leave to the vexatious litigator unless it “is satisfied that the proceedings or application are not an abuse of process of the court in question and that there are reasonable grounds for the proceedings or application.” *Id.*

The court notes that Helms has not submitted Civ.R.56 evidence to rebut that which has been presented by the plaintiff. Upon review, the court finds the motion for summary judgment to have merit and will grant it accordingly.

A review of the pleadings filed in this matter establishes that Helms repeatedly files the same or similar pleadings against the city of Akron, its departments, agents, employees and other parties despite previous judicial opinions that state that the cause of action or relief requested do not state a claim or have no basis in law or fact. For instance, within one year of the filing of this lawsuit, he filed the following cases:

Joel Helms v. Dept. of Neighborhood Assistance, Summit County Common Pleas No. CV-2021-08-2447, dismissed 1-31-2023.

Joel Helms v. Beth Diefendorf, Summit County Common Pleas No. MS-2021-00-0015. Mr. Helms has appealed this matter in *Helms v. Diefendorf*, 9th Dist. Summit No. 30064, trial court judgment affirmed 3-22-2023; appeal to the Ohio Supreme Court filed 5-11-2023.

In re: Affidavit of Joel Helms, 9th Dist. Summit No. 29947, which is currently pending. Mr. Helms appealed this matter in *In re: Affidavit of Joel Helms*, Ohio Supreme Court No. 2021-0645, and the Ohio Supreme Court affirmed the decision of the Ninth District.

Joel Helms v. Summit County Board of Building Appeals, Summit County Common Pleas No. CV-2020-03-0915. Mr. Helms appealed this matter in *Helms v. Summit County Board of Building Standards, et al.*, 9th Dist. Summit No. 30102, which was dismissed.

Joel Helms vs. Department of Neighborhood Assistance, Summit County Common Pleas No. CV-2020-01-0206. Mr. Helms appealed this matter in *Helms v. Department of Neighborhood Assistance*, 9th Dist. No. 29791, which was dismissed. Mr. Helms appealed the Ninth District's decision to the Ohio Supreme Court, Case No. 2021-1531, and the court denied jurisdiction.

Further, over the years, Helms has been involved in some 52 filings in the Summit County Court of Common Pleas. The sheer volume of cases prohibits this court from making a detail-by-detail analysis of each one.

A review of Helms's pleadings in the cases aforementioned reveals that Helms's pleadings are a compilation of rambling briefs that do little, if anything, to assist the courts that are confronted with them. In fact, the sheer volume of his filings causes the expenditure of an enormous amount of judicial time and resources as each brief must be read and ruled on

regardless of the fact that they are completely without merit. The vast majority of Helms's cases end up dismissed, but not without a great deal of time and effort having been expended by opposing counsel and the court.

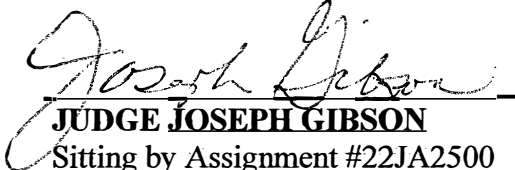
In light of the foregoing, Defendant Joel Helms is hereby declared to be a vexatious litigator. Joel Helms is hereby prohibited from doing all of the following without first obtaining leave of the court to proceed:

- 1. Instituting legal proceedings in the court of claims or in a court of common pleas, municipal court or county court;**
- 2. Continuing any legal proceedings that he had instituted in the court of claims or in a court of common pleas, municipal court or county court prior to the entry of this order; and**
- 3. Making any application, other than an application for leave to proceed under R.C. 2323.52(F) in any legal proceedings instituted by him or another person in the court of claims, or in a court of common pleas, municipal court or county court.**

In the case at bar Defendant has filed numerous petitions, objections and demands. Each and every filing by Defendant is hereby expressly and summarily OVERRULED AND DENIED.

This is a final and appealable order. There is no just cause for delay.

IT IS SO ORDERED.


JUDGE JOSEPH GIBSON

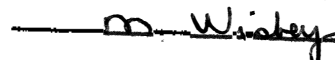
Sitting by Assignment #22JA2500

Pursuant to Art. IV, Sec. 6

Ohio Constitution

cc: Mr. Joel Helms
Assistant Director of Law Kirsten L. Smith

I certify this to be a true copy of the original
Sandra Kurt, Clerk of Courts.

 Deputy Clerk