

FILED
IN THE COMMON PLEAS COURT OF GREENE COUNTY, OHIO
2005 JUN -6 PM 9:04 CIVIL DIVISION

GREGORY D. WHITT
Plaintiff,

TERESA A. MAZUR, CLERK:
COMMON PLEAS COURT
GREENE COUNTY, OHIO

Case No. 2004 CV 0722

JUDGE WOLAVER

v.

PATSY SUE WHITT

Defendant.

JUDGMENT ENTRY

This matter is before the Court on Plaintiff Gregory D. Whitt's Motion for Partial Summary Judgment that Defendant Patsy Sue Whitt be declared a vexatious litigant pursuant to O.R.C. 2323.52, and for an order establishing potential remedies as set forth in subsection (D)(1) of O.R.C. 2323.52, filed February 14, 2005.

SUMMARY JUDGMENT STANDARD

Pursuant to Civil Rule 56 of the Ohio Rules of Civil Procedure, summary judgment is proper when:

- (1) no genuine issue of material fact remains to be litigated
- (2) the moving party is entitled to summary judgment as a matter of law;
- (3) it appears from the evidence that reasonable minds can come to but one conclusion, and that conclusion is adverse to the party against whom the motion for summary judgment is made, who is entitled to have the evidence construed most strongly in his [her] favor.

Temple v. Wean United, Inc., 50 Ohio St.2d 317, 327 (1977). Lime City Mutual Insurance Assoc. v. Mullins, 83 Ohio App.3d 517, 520 (6th dist. 1992) (Citing Harless v. Willis Day Warehousing Co., 54 Ohio St.2d 64, 66 (1978)). The moving party bears the

CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL
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CERTIFIED THIS 6th DAY OF June 2005
S. Paul Stewart
DEPUTY CLERK OF COURTS, GREENE COUNTY, OHIO

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- (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 appeals, court of common pleas, municipal court, or county court...."

Plaintiff Whitt alleges that Defendant Whitt has filed numerous actions and appeals in order to deplete the assets of the family trust so that Plaintiff Whitt, a beneficiary, would ultimately receive nothing from said family trust. (Affidavits of Gregory D. Whitt and Billie J. Whitt, attached to Plaintiff's Motion for Summary Judgment, Exhibits 1 & 2). Plaintiff Whitt alleges that 7 (seven) frivolous lawsuits, among other lawsuits directed at members of the family trust, were initiated by Defendant Whitt over the years 2001-2004. Plaintiff Whitt alleges that Defendant Whitt has lost virtually every suit, including numerous appeals and re-appeals. Plaintiff Whitt supports his argument that Defendant is a vexatious litigant with the most recent decision in Case No. 2004CA0031, the Greene County case of Patsy Whitt v. Gregory D. Whitt, which reads as follows:

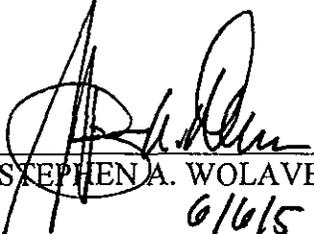
"As to the first assignment of error the appellant (Patsy Sue Whitt) claims the trial court erred in awarding attorney fees without making a specific finding that the lawsuits against the plaintiff by the defendant were frivolous. On the contrary, the record of this provides ample evidence that the three years of litigation initiated by the appellant against the appellee was vexatious and frivolous. See Tr. 69-78 of the December 5, 2003 hearing....If there were ever a case that is replete with substantial evidence of the vendetta pursued by the appellant against the appellees (Gregory D. Whitt and Patricia L. Whitt), this is it....The trial court was well aware of the futile series of lawsuits pursued by the appellant against the appellee over a three-year period and its recognition of the frivolous and vexatious nature of these suits is transparently explicit in its

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decision on the issue.” (Gregory D. Whitt’s Motion for Partial Summary Judgment, Exhibit 5).

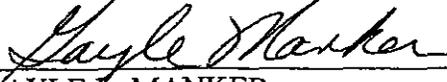
Plaintiff Whitt further asks this court for an order establishing the remedies set forth under Subsection (D)(1) of O.R.C. 2323.52; “If the person alleged to be a vexatious litigator is found to be a vexatious litigator, subject to (D)(2) of this section, the court of common pleas may enter an order prohibiting the vexatious litigator from doing on 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 any of the courts specified in division (D)(1)(a) of this section prior to the entry of the order; (c) Making any applications, other than an application for leave to proceed under division (F)(1) of this section, in any legal proceedings instituted by the vexatious litigator or another person in any of the courts specified in division (D)(1)(a) of this section.

Accordingly, Plaintiff Whitt’s Motion for Partial Summary Judgment finding Defendant Whitt to be a vexatious litigant as set forth in R.C. 2323.52 is HEREBY GRANTED. IT IS SO ORDERED.



JUDGE STEPHEN A. WOLAVER
6/16/15

SERVICE OF COPY:
Christ Theodor (FAX# 374-4545)
Anthony VanNoy (FAX# 222-7911)



GAYLE L. MANKER
Assignment Commissioner

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