

IN THE COURT OF COMMON PLEAS
GUERNSEY COUNTY, OHIO

FILED
COMMON PLEAS COURT
FEB - 5 2009
GUERNSEY COUNTY, OHIO
Teresa A. Dankovic, Clerk of Court

C. KEITH PLUMMER,

Plaintiff,

CASE NO. 08-CV-412

vs.

JOHN T. WESTFALL,

ENTRY

Defendant.

This case comes before the Court for non-oral hearing upon the following:

- (1) Plaintiff's Motion for Summary Judgment, filed January 7, 2009;
- (2) Defendant's *pro se* Motion to Oppose Summary Judgment Filed by Plaintiff, filed January 12, 2009;
- (3) Defendant's *pro se* Motion to Oppose Summary Judgment filed January 12, 2009; and
- (4) Plaintiff's Response to Defendant's Motion to Oppose Summary Judgment filed by Plaintiff; Motion to Strike, filed January 27, 2009.

The Court finds that Plaintiff requests the Court to grant Summary Judgment and declare Defendant, John T. Westfall, a vexatious litigator as Defendant has filed repeated actions against Plaintiff, all of which have been determined to be without merit and despite repeated review by independent prosecutors and several courts, Defendant has continued to file additional actions.

Ohio Revised Code Section 2323.52(A)(3) defines a vexatious litigator as "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, 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 conduct is defined as “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; or (c) the conduct is imposed solely for delay.”

The Court finds that Defendant Westfall has filed no less than five civil actions, repeatedly alleging that Plaintiff perpetrated fraud in the preparation and/or signature of Defendant’s father, Dean Westfall’s, will.

After reviewing the file, the Court finds that no genuine issues of material fact remain and hereby **GRANTS** Plaintiff’s Motion for Summary Judgment pursuant to Civil Rule 56 and **DECLARES** John T. Westfall a vexatious litigator pursuant to Ohio Revised Code Section 2323.52.

This Court issues judgment in favor of C. Keith Plummer and against John D. Westfall, hereby declaring Defendant, John T. Westfall, a vexatious litigator and enters an **ORDER** prohibiting John T. Westfall from doing the following without first obtaining leave of the Court to proceed:

- (1) Instituting legal proceedings in the Court of Common Pleas or Municipal Court in Guernsey County, Ohio.
- (2) Continuing any legal proceedings that John T. Westfall has instituted in the Municipal Court, including but not limited to, *Case No. 04-MSX-00001*, in the Common Pleas Court, including but not limited to, *Case No. 07-CV-000080*, *Case No. 02-CV-000182*, in the Appeals Court of the Fifth District, including but not limited to, *Case No. 02-CA-000019*, *Case No. 07-CA-000019*, in the Supreme Court of Ohio, *Case No. 03-997*, making any Application other than an Application for leave to proceed under Division (F)(1) of Section 2323.52 and any legal proceedings instituted by John T. Westfall.

PAGRE THREE
ENTRY – CASE NO. 08-CV-412

The Court further finds that Plaintiff's Motion to Strike is hereby found to be **MOOT**.

This Order is hereby effective for a period of ten (10) years limited to these issues raised by Defendant.

Costs are hereby assessed to Defendant.

IT IS SO ORDERED.

**FINAL APPEALABLE
ORDER
NO JUST CAUSE FOR DELAY**



JUDGE OF THE COMMON PLEAS COURT
GUERNSEY COUNTY, OHIO

cc: Stephanie L. Mitchell, Attorney for Plaintiff
John T. Westfall, P.O. Box 201, Cambridge, OH 43725, Defendant
(*pro se*)

I hereby certify this to be a true copy
of the original filed in this office on
April 5, 2009
TERESA A. DANKOVIC
Clerk of Courts, Guernsey Co., Ohio
By Teresa A. Dankovic