

**BUTLER COUNTY, STATE OF OHIO  
COURT OF COMMON PLEAS  
DIVISION OF DOMESTIC RELATIONS**

ENTERED COA  
TO THE CLERK: THIS IS A FINAL APPEALABLE  
ORDER. Please serve upon all parties not in  
default for failure to appear notice of the  
Judgment and its date of entry upon the Journal

**TIMOTHY WHITLING**  
704 Shady Lane  
Fairfield, Ohio 45014  
DOB: 12/23/1958  
Telephone: (513) 973-9389

CASE NO. DR2015-06-0456

JUDGE HALCOMB

Plaintiff

MARY L. SWAIN  
CLERK OF COURTS

vs.

SEP 11 2017

**LISA WHITLING**  
5303 Lakeside Drive  
Fairfield, Ohio 45014  
DOB: 12/07/1959  
Telephone: (513) 368-7729

FILED in Common Pleas Court  
BUTLER COUNTY, OHIO

Defendant

**DECISION  
Final Appealable Order**

Defendant Lisa Whitling appeared before the Court on this 6<sup>th</sup> day of September, 2017, and proceeded with the following motions: (G56) Motion for Attorney Fees and (G113) Motion to Declare Party a Vexatious Litigant. The Court finds Plaintiff Timothy Whitling was duly served with the summons and motions pursuant to the Civil Rules for Procedure. Defendant's exhibits 1, 2, and 3 were admitted into evidence. Based upon the testimony presented and said exhibits, the Court finds as follows:

- Plaintiff has filed approximately seventy-eight motions in this case through the end of March, 2017.
- Since the Decree of Divorce filed on August 9, 2016, Plaintiff had file nine motions and/or objections through the end of March, 2017.

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Butler County Clerk of Courts  
*C. Johnson* Deputy

- Many of these post-decree motions were dismissed as Plaintiff failed to even appear at the hearings scheduled by Plaintiff (some of the motions were stayed by the Court due to the pending appeal filed by Plaintiff with the Twelfth District Court of Appeals). In fact, Plaintiff failed to appear on at least three separate hearings requested by Plaintiff at the time he filed the post-decree motions.

The Court finds that Plaintiff's conduct falls within the scope of R.C. 2323.51 ("Frivolous Conduct in Filing Civil Claims") in that "[t]he conduct consists of allegations \*\*\* that have no evidentiary support \*\*\*. R.C. 2323.51(iii). Further, this Court has authority to award attorney fees in post-decree litigation under R.C. 3105.73(B) whenever the Court finds such an award to be equitable.

The Court finds that Plaintiff's conduct is "frivolous" and it is only equitable that Defendant shall be reimbursed for her legal fees incurred. Based upon the evidence presented, IT IS HEREBY ORDERED Plaintiff Timothy Whitling shall pay to Defendant Lisa Whitling the sum of \$2,722.00 within sixty (60) days after the file-stamped date of this Decision.

Under R.C. 2323.52, the Court can designate a party as a vexatious litigator where a party has engaged in "vexatious conduct." Vexatious conduct includes 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, reversal of existing law.
- (c) The conduct is imposed solely for delay.

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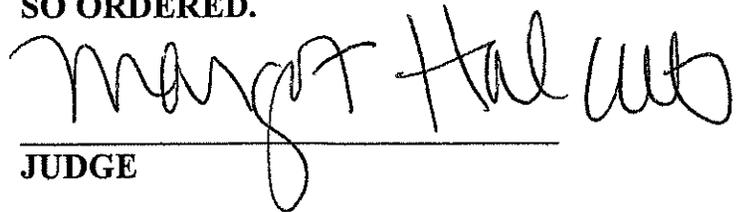
- (3) "Vexatious litigator" means any person who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct \*\*\* .

R.C. 2323.52

Based upon the evidence presented, the Court further finds Plaintiff is a "vexatious" litigant under the statute. The Court makes this finding because Plaintiff "has habitually, persistently, and without reasonable grounds engaged in vexatious conduct \*\*\* ."

IT IS THEREFORE HEREBY ORDERED Plaintiff Timothy Whitling hereafter shall not, without first obtaining leave of this Court, file or otherwise institute legal proceedings or continue in any legal proceedings in the Butler County Court of Common Pleas, Division of Domestic Relations.

SO ORDERED.

  
\_\_\_\_\_  
JUDGE

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 Deputy