

attorney in the State of Washington, this case was voluntarily dismissed due to Plaintiffs failure to inform the court that he was not licensed to practice law in the State of Ohio.

Undaunted, Plaintiff filed his third lawsuit entitled Robert Grundstein v. George Bielert, Ewolf's Gallery Inc., and Wolf's Gallery, Inc. This case was dismissed in its entirety by the Honorable Judge Nancy M. Russo on January 6, 2004 as a result of the granting of the Motion to Dismiss filed by Mr. Bielert. However, service was never perfected on the remaining entities in this lawsuit and the case was remanded by the Court of Appeals for that purpose. The dismissal of Mr. Bielert was upheld by the Court of Appeals and his presence in this lawsuit should have ceased at this point.

Nevertheless, Plaintiff has not only continued to name Mr. Bielert in various fashions through multiple pleadings in this Court, he has insisted upon re-creating his presence in this proceeding. He has been denied on several occasions and reminded by this Court that Mr. Bielert is no longer a party to this case. His response has been to repeatedly file additional motions with this Court and the Court of Appeals in which his recourse is to insult the Court and its Staff.

To further show his unwillingness to yield to the opinion of the Court of Appeals as well as the rules of civil procedure, Plaintiff has filed yet another lawsuit in this Court entitled Robert Grundstein v. Wolf's Gallery, Inc., case no. 572848. In this case Plaintiff has cleverly omitted George Bielerts name from the face of the complaint, however, upon inspection, Count VIII of the complaint, entitled Piercing the Corporate Veil, once again attempts to bring George Bielert back before this court.

Motion for Sanctions Due to Frivolous Conduct

Pursuant to Ohio Revised Code Section 2323.51 "Frivolous conduct" means conduct of a party to a civil action that satisfies any of the enumerated behaviors. In this case section 2(a)(i) and (ii) are applicable:

- (i) It obviously serves merely to harass or maliciously injure another party to the civil action or appeal or is for another improper purpose, including, but not limited to, causing unnecessary delay or a needless increase in the cost of litigation.
- (ii) It is not warranted under existing law, cannot be supported by a good faith argument for an extension, modification, or reversal of existing law, or cannot be supported by a good faith argument for the establishment of new law.

This Court will not begin to address the legal or procedural deficiencies of Plaintiff's case. What the court will address is the various re-filings of separate causes of action that relate to the same transaction in which Mr. Bielert continues to be a named party. While this Court sympathizes with the plight of Plaintiff in the loss of proceeds derived from the sale of his mother's consigned goods, the Court cannot rectify the harm by reinventing a cause of action against Mr. Bielert.

Mr. Bielert was dismissed from this case and upheld by the Court of Appeals in Oct. of 2004. Nevertheless, Plaintiffs behavior has gone beyond the bounds of advocacy and extended to the point of harassment. Plaintiffs behavior encompasses those of section 2323.51(2)(a)(i) and (ii) by unnecessarily delaying the conclusion of this case and needlessly increasing the cost of this litigation by Mr. Bielert. Plaintiff's behavior cannot be said to be in good faith as it is not in accordance with existing law nor is it a valid argument for extension, modification or reversal of existing law. Plaintiff has been

reminded of this on numerous occasions through multiple denials of motions sought to rename Mr. Bielert, to no avail.

It is further noted that during the course of this case, Plaintiff has involved himself in behavior exceeding the bounds of zealous advocacy and bordering on harassment and menacing. While this list is not exhaustive, Plaintiff has for example violated Ohio DR 7-104 in his continued direct contacts with Mr. Bielert, while being well aware that he is represented by counsel. He has also made reference to the personal information of Mr. Bielert by implying that he has either been inside his home or looking through his windows for an improper purpose by stating "your house is for sale... the art and collectables inside are lovely". He has also continued to leave various derogatory phone messages to Attorney Dodd referring to him as the "anti-Christ."

The continued melee of motions that Mr. Bielert has had to respond to as well as various appearance in court by counsel, after his dismissal from this case, are directly attributable to the failure of Plaintiff to recognize the orders of this Court and the Court of Appeals and is therefore, frivolous conduct pursuant to R.C 2323.51(A)(2)(i) and (ii). Based on the foregoing as well as additional evidence presented by Defendant's counsel during a hearing on the matter, the Court finds that the conduct of Plaintiff was frivolous and defendant was adversely affected by such conduct.

Pursuant to this Court's order Defendant submitted an invoice of the requested attorney fees. After review, the Court finds the amount to be certainly reasonable and necessary in lieu of the efforts of Defendant to continue to defend against a case for which he was dismissed approximately one year ago. The Court grants the attorney fees incurred by Mr. Bielert after October 28, 2004 in the amount of the \$4,949.00.

Motion to Declare Plaintiff a Vexatious Litigator

This court has previously described the conduct that Plaintiff has engaged in, which applies to R.C. 2323.51, frivolous conduct as well as R.C. 2323.52, vexatious litigators. More specifically R.C. 2323.52(A)(3) defines "vexatious litigator" as:

...any person who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions, ...in the court of common pleas, 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.

Plaintiff has shown his ability to be habitual and persistent. In the wake of the proceedings in this matter, Plaintiff has filed yet another case surrounding the same transaction. Plaintiff is unimpressed with the rulings of this Court and those of the Court of Appeals. He has allowed his personal connection with this case to blur the legal boundaries, which prevent him from further pursuing this matter against Mr. Bielert. It is apparent that short of prohibitory action on the part of the Court, Plaintiff will continue to abuse the legal system as well as Mr. Bielert.

It should be noted that as previously stated, Plaintiff is an attorney licensed to practice law in the State of Washington. By the oath, whether taken in this State or any other, lawyers are charged with high ethical standards which, as professionals, they are expected to uphold at all times. Dayton Bar Assn. v. O'Brien (2004), 103 Ohio St. 3d 1. When one commits to being a member of the legal profession, dignity and high standards of conduct are required in order to maintain the respect of our profession. The described conduct that Plaintiff has engaged in relative to this case can only be described as "vexatious" and unacceptable conduct of an attorney.

The Court hereby declares Plaintiff Robert Grundstein a vexatious litigator. He is hereby prevented without first obtaining leave of court to proceed from doing any of the following:

- (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 he has instituted in the court of claims or in a court of common pleas, municipal court, or county court;
- (c) Making any application, other than an application for leave to proceed, in any legal proceedings instituted by himself or one acting in his behalf in any of the courts specified above.

IT IS SO ORDERED


JUDGE LILLIAN J. GREENE

RECEIVED FOR FILING

OCT 12 2005

GERALD E. FUERST, CLERK
By *[Signature]* Deputy

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THE STATE OF OHIO Cuyahoga County	} SS. I. GERALD E. FUERST, CLERK OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY.
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL <u>ORDER</u>	
<u>50</u> OPINION re: VEXATIOUS LITIGATOR	
NOW ON FILE IN MY OFFICE. Vol <u>3419</u> p <u>302</u>	
WITNESS MY HAND AND SEAL OF SAID COURT THIS <u>19th</u>	
DAY OF <u>October</u> A.D. 20 <u>05</u>	
GERALD E. FUERST, Clerk	
By <u><i>[Signature]</i></u> Deputy	

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