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**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

ANTHONY JERDINE, ET AL
Plaintiff

J. P. MORGAN CHASE BANK, N. A., ET AL
Defendant

Case No: CV-11-752655

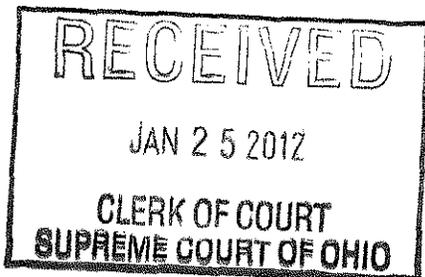
Judge: DICK AMBROSE

JOURNAL ENTRY

83 DISP.COURT TRIAL - FINAL

THIS COURT HEREBY ADOPTS THE FINDINGS OF FACT AND CONCLUSIONS OF LAW PROPOSED TO THE COURT ON JANUARY 13, 2012. THIS COURT GRANTS JUDGMENT IN FAVOR OF THE DEFENDANTS AND AGAINST THE PLAINTIFFS, ANTHONY JERDINE AND DARRYL JERDINE ON DEFENDANTS COUNTERCLAIM TO DECLARE THE JERDINES VEXATIOUS LITIGATORS. ANTHONY JERDINE AND DARRYL JERDINE ARE HEREBY DEEMED VEXATIOUS LITIGATORS AND THEY ARE HEREBY PROHIBITED FROM INSTITUTING OR CONTINUING ANY LEGAL PROCEEDINGS, OR MAKING ANY APPLICATION IN ANY LEGAL PROCEEDINGS, IN THE COURT OF CLAIMS OR IN ANY COURT OF COMMON PLEAS, MUNICIPAL COURT, OR COUNTY COURT WITHOUT FIRST OBTAINING LEAVE OF THIS COURT. PLAINTIFFS ARE ALSO PROHIBITED FROM INSTITUTING OR CONTINUING ANY LEGAL PROCEEDINGS IN A COURT OF APPEALS WITHOUT FIRST OBTAINING LEAVE FROM THE COURT OF APPEALS PURSUANT TO ORC 2323.52(F)(2). AS THIS COURT PREVIOUSLY DISPOSED OF ALL OTHER CLAIMS IN THIS ACTION IN A NOVEMBER 14, 2011 ORDER, THIS ORDER CONSTITUTES A FINAL JUDGMENT IN THIS ACTION. THERE IS NO JUST REASON FOR DELAY. OSJ.
COURT COST ASSESSED TO THE PLAINTIFF(S).

OSJ
Judge Signature Date



**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

ANTHONY JERDINE, et al.,)	Case No. 11 CV 752655
)	
Plaintiffs,)	JUDGE DICK AMBROSE
)	
v.)	
)	
JPMORGAN CHASE BANK, et al.,)	
)	
Defendants.)	



FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court held a hearing on January 6, 2012, on the Counterclaims asserted by Defendants Select Portfolio Servicing, Inc., and JPMorgan Chase Bank, N.A., as acquirer of certain assets and liabilities of Washington Mutual Bank from the Federal Deposit Insurance Corporation, as Receiver for Washington Mutual Bank, and Park Assurance Company (“Defendants”) seeking to have Plaintiffs Anthony Jerdine and Darryl Jerdine declared vexatious litigators pursuant to Ohio Revised Code § 2323.52. Defendants presented facts and legal arguments in support of their Counterclaims, including submitting Joint Exhibits, which the Court admitted into evidence, and case law for the Court’s consideration. The Joint Exhibits included, among other things, case docket sheets, judicial opinions, and certified copies of other pleadings documenting the prior civil actions and appeals initiated by Plaintiffs against Defendants and others. Based on the hearing, the Defendants’ briefs and evidentiary submissions, and its own review, the Court makes the following findings of fact and conclusions of law.

I. Findings of Fact

The Court makes the following specific findings of fact:

1. This litigation pertains to a mortgage loan Darryl Jerdine obtained from Washington Mutual Bank on February 2, 2005, in the amount of \$1,020,000.00, for the purchase of property located at 28220 Red Raven Road, Pepper Pike, Ohio 44124 (the “Red Raven Property”). (See Plaintiffs’ Complaint; Select Portfolio Servicing’s Counterclaim.) Darryl Jerdine made one payment and then defaulted, and Washington Mutual filed the original foreclosure action on the Red Raven Property on August 23, 2005, Case No. CV-05-570626. (See Select Portfolio Servicing’s Counterclaim.) On February 2, 2007, the Court of Common Pleas adopted the magistrate’s decision granting Washington Mutual summary judgment; thereafter, the Cuyahoga County Court of Common Pleas entered a judgment decree in foreclosure and the Red Raven Property was sold at sheriff sale. (See Select Portfolio Servicing’s Answer and Counterclaim; Defendant’s Joint Exhibit O.)

2. Defendants presented substantial evidence regarding the numerous lawsuits and appeals initiated by Plaintiffs to challenge the original foreclosure action. Indeed, Plaintiffs continue to litigate the original foreclosure action – Darryl Jerdine filed a motion to vacate the judgment (in the 2005 foreclosure litigation) on September 15, 2011, nearly five years after the court granted summary judgment. (Defendants’ Joint Exhibit O.)

3. One or both Plaintiffs have initiated the following civil actions or appeals in Ohio state court related to the foreclosure of the Red Raven Property:

- *In Re: Darryl Jerdine*, Eighth District Court of Appeals, Case No. CA-08-091172 (relevant documents admitted as Defendants’ Joint Exhibit A). Writ of mandamus action, filed by “Anthony Lewis, authorized representative for Darryl Jerdine,” against former Judge Bridget McCafferty to enjoin her from carrying out the judgment in the original foreclosure action. The appellate court dismissed the action for several procedural reasons, including the unauthorized practice of law

by “Anthony Lewis,” and because the Jerdines failed to establish entitlement to mandamus. (Defendants’ Joint Exhibit A-3.);

- *Washington Mutual Bank v. Darryl Jerdine*, Eighth District Court of Appeals, Case No. CA-08-091444 (relevant documents admitted as Defendants’ Joint Exhibit B). Darryl Jerdine’s first direct appeal of the original foreclosure action. The appellate court dismissed the action *sua sponte* because of Jerdine’s failure to file a timely notice of appeal per Appellate Rule 4(A). (Defendants’ Joint Exhibit B-3.);
- *Washington Mutual Bank v. Darryl Jerdine*, Eighth District Court of Appeals, Case No. CA-08-091823 (relevant documents admitted as Defendants’ Joint Exhibit C). Darryl Jerdine’s second direct appeal of the original foreclosure action. Like the first appeal, the appellate court dismissed the action *sua sponte* because of Jerdine’s failure to file a timely notice of appeal per Appellate Rule 4(A). (Defendants’ Joint Exhibit C-3.);
- *Darryl Jerdine v. Select Portfolio Servicing, Inc., et al.*, Court of Common Pleas, Cuyahoga County, Case No. CV-08-668159 (relevant documents admitted as Defendants’ Joint Exhibit D). A lis pendens lawsuit filed by Anthony and Darryl Jerdine against Washington Mutual, Select Portfolio Servicing, and numerous individual defendants. The court dismissed the case without prejudice because the Jerdines failed to comply with the court’s orders and Local Civil Rule 24. (Defendants’ Joint Exhibit D-9.);
- *Darryl Jerdine, et al. v. Select Portfolio Servicing, Inc., et al.*, Eighth District Court of Appeals, Case No. CA-09-092890 (relevant documents admitted as Defendants’ Joint Exhibit E). Anthony and Darryl Jerdine appealed the dismissal of Case No. CV-08-668159. The appellate court dismissed the appeal *sua sponte* pursuant to Ohio Revised Code § 2505.02 for lack of a final, appealable order. (Defendants’ Joint Exhibit E-3.);
- *Anthony Jerdine, et al. v. Washington Mutual Bank, F.A.*, Court of Common Pleas, Cuyahoga County, Case No. CV-09-688130 (relevant documents admitted as Defendants’ Joint Exhibit F). Anthony and Darryl Jerdine sued JPMorgan Chase, the FDIC, Washington Mutual, Select Portfolio Servicing, and several other defendants for, among other things, conspiracy and to quiet title. The court dismissed the case without prejudice after the Jerdines failed to appear at a pre-trial conference. (Defendants’ Joint Exhibit F-1); and
- The present action against JPMorgan Chase, Washington Mutual, Park Assurance Company, Select Portfolio Servicing, and others. The Court granted Defendants’ motions for summary judgment on November 14, 2011.

4. One or both Plaintiffs have instituted the following civil actions or appeals in various federal courts related to the foreclosure of the Red Raven Property:

- *Jerdine, et al. v. Washington Mutual Bank, et al.*, United States District Court, Northern District of Ohio, Case No. 1:07-cv-02984 (relevant documents admitted as Defendants' Joint Exhibit H). Anthony Jerdine sued Washington Mutual, former Judge Bridget McCafferty, and former Sheriff Gerald T. McPaul for, among other things, civil conspiracy and to quiet title. The court dismissed the case *sua sponte* holding that, under the *Rooker-Feldman* doctrine, it lacked subject matter jurisdiction over Jerdine's challenge to a state court decision.¹ (Defendants' Joint Exhibits H-3, H-4.);
- Anthony Jerdine twice appealed Case No. 1:07-cv-2984. (Defendants' Joint Exhibits H-5, H-6.) The first appeal, United States Court of Appeals, Sixth Circuit, Case No. 08-3561, was dismissed because Jerdine failed to comply with Federal Appellate Rule 4. (Defendants' Joint Exhibit H-7.) The second appeal, United States Court of Appeals, Sixth Circuit, Case No. 08-3676, challenged the district court's denial of Jerdine's motion to stay proceedings under Federal Civil Rule 60(b). The Sixth Circuit affirmed the district court's decision. (Defendants' Joint Exhibit H-8.);
- *Jerdine, et al. v. FDIC, et al.*, United States District Court, Northern District of Ohio, Case No. 1:09-cv-00307 (relevant documents admitted as Defendants' Joint Exhibit I). Anthony and Darryl Jerdine sued, among others, the FDIC, Washington Mutual, and Select Portfolio Servicing, asserting numerous claims related to the origination of the mortgage loan for the Red Raven Property. The district court held that the doctrine of *res judicata* barred the Jerdines from again re-litigating their claims. (Defendants' Joint Exhibits I-3, I-4.) It dismissed the case and, pursuant to 28 U.S.C. § 1915(a)(3), certified that an appeal could not be taken in good faith. (*Id.*);
- Despite the district court's certification, the Jerdines again filed two Notices of Appeal, United States Court of Appeals, Sixth Circuit, Case No. 09-3955 (Defendants' Joint Exhibit I-5), and Case No. 09-3956 (Defendants' Joint Exhibit I-6). The Sixth Circuit dismissed the second appeal, Case No. 09-3956, as redundant. (Defendants' Joint Exhibit I-7.) Thereafter, it dismissed the first appeal, Case No. 09-3955, for want of prosecution because the Jerdines failed to pay the filing fee. (Defendants' Joint Exhibit I-8.);
- *Jerdine, et al., v. Washington Mutual Bank, F.A., et al.*, United States District Court, District of Columbia, Case No. 1:09-cv-01840 (relevant documents admitted as Defendants' Joint Exhibit J). Anthony and Darryl Jerdine sued Washington Mutual, as agent of the FDIC, Select Portfolio Servicing, and others.

¹ See *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923).

The Court dismissed the claims related to the original foreclosure action pursuant to the *Rooker-Feldman* doctrine. (Defendants' Joint Exhibits J-2, J-3.);

- *Jerdine v. FDIC as receiver for Washington Mutual Bank*, United States District Court, Western District of Washington, Case No. 2:09-cv-01596 (relevant documents admitted as Defendants' Joint Exhibit K). Anthony and Darryl Jerdine brought suit against the FDIC asserting claims related to the origination of the mortgage loan for the Red Raven Property. The district court granted the defendants' motions to dismiss on several grounds, including *res judicata* and lack of subject matter jurisdiction under the *Rooker-Feldman* doctrine. (Defendants' Joint Exhibits K-3, K-4); and
- The Jerdines appealed the decision in Case No. 2:09-cv-01596, United States Court of Appeals, Ninth Circuit, Case No. 10-36097. (Defendants' Joint Exhibit K-5.) The Ninth Circuit dismissed the appeal on procedural grounds. (Defendants' Joint Exhibit K-6.)

5. In sum, one or both Plaintiffs have filed 7 separate civil actions or appeals in Ohio state courts and 9 separate civil actions or appeals in federal courts challenging the original foreclosure action and/or the mortgage loan origination for the Red Raven Property.

6. Additionally, Plaintiffs have filed numerous civil actions against numerous parties unrelated to the Red Raven Property.

7. For example, Anthony Jerdine filed the following actions against Chase, Washington Mutual, and Park Assurance Company within a week of each other making almost identical allegations:

- *Jerdine v. JPMorgan Chase Bank, N.A., et al.*, United States District Court, Northern District of Ohio, Case No. 4:11-cv-0414 (relevant documents admitted as Defendants' Joint Exhibit L). The district court dismissed the action *sua sponte* pursuant to 28 U.S.C. § 1915(g). (Defendants' Joint Exhibits L-3, L-4.) Before dismissing the case, the district ordered Anthony Jerdine not to file any motions or documents. (Defendants' Joint Exhibit L-2.); and
- *Anthony Jerdine v. JPMorgan Chase Bank, N.A., et al.*, Court of Common Pleas, Cuyahoga County, Case No. CV-11-749948 (relevant documents admitted as Defendants' Joint Exhibit G). Removed by Chase to the United States District Court, Northern District of Ohio, Case No. 1:11-cv-00731 (relevant documents admitted as Defendants' Joint Exhibit M), and ultimately voluntarily dismissed by Anthony Jerdine. (Defendants' Joint Exhibit M-3.)

8. Plaintiffs also have engaged in vexatious conduct in the prosecution of their numerous civil actions and appeals. For example, in this lawsuit and in others, Plaintiffs issued subpoenas to several Chase employees who have no connection to their claims. (*See* Defendants' Joint Exhibits G-3, G-4, G-5, G-6, and G-8; Plaintiffs' 4/22/11 Subpoena for Vick Weaver, 4/22/11 Subpoena for Sandy Brooks, and 4/22/11 Subpoena for Jason Klein.) Anthony Jerdine submitted an affidavit of admitted facts based on requests for admission that Plaintiffs never served on the defendants. (6/24/11 Affidavit of Admitted Facts.) And Plaintiffs failed to serve discovery and pleadings on opposing counsel on the dates that they certified service was completed. (*See* Chase's 6/1/11 Motion to Stay Discovery and Consolidated Memorandum in Support and Chase's 6/24/11 Notice of Delay of Service.)

9. In this and other cases, Plaintiffs improperly served subpoenas on parties. (*See* Defendants' Joint Exhibit D-3; Plaintiffs' 4/22/11 Subpoena for John D. Clunk, L.P.A. and 4/22/11 Subpoena for Lerner, Sampson & Rothfuss.) They continued to serve discovery and improper subpoenas in a state case after it had been removed to federal court. (Defendants' Joint Exhibit G-1.) They sought to have all counsel in one case provide an oath of office and then sought an order compelling it. (Defendants' Joint Exhibits D-5, D-6.) Furthermore, in one case, Plaintiffs filed a motion to deem requests for admission admitted, despite the fact that responses had been provided. (Defendants' Joint Exhibit D-4.)

10. Plaintiffs have not in any way contested Defendants' evidentiary submissions.

II. Conclusions of Law

The Court makes the following specific conclusions of law:

1. Anthony and Darryl Jerdine constitute vexatious litigators under Ohio Revised Code § 2323.52.

2. A vexatious litigator is one “who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions” in Ohio state courts, regardless of “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.” Ohio Rev. Code § 2323.52(A)(3). Vexatious conduct includes all conduct 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.

Ohio Rev. Code § 2323.52 (A)(2).

3. The purpose of the vexatious litigator statute is “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 trials courts of” the State of Ohio. *Mayer v. Bristow*, 91 Ohio St. 3d 3, 13 (2000) (citations omitted) (emphasis added). “It is patently unfair and unreasonable that any person should be continually forced to defend against, and the court system should be forced to handle, the same unwarranted complaint that cannot be supported by any recognized good-faith argument.” *Hull v. Sawchyn*, 145 Ohio App. 3d 193, 197 (8th Dist. 2001).

4. Plaintiffs habitually, persistently, and without reasonable grounds have filed numerous civil actions and appeals forcing Defendants and others to defend against baseless claims that were not warranted under existing law.

5. Plaintiffs' conduct was not based on good faith arguments to modify, extend, or reverse existing law. Rather, it served merely to harass and maliciously injure Defendants and others.

6. Numerous courts have found that parties engaging in conduct similar to Plaintiffs' conduct constitute vexatious litigators. *See, e.g., Hull*, 145 Ohio App. 3d at 195-96 (reversing the trial court and finding as a matter of law that litigant was a vexatious litigator where he filed three additional lawsuits on the same claim against the same party after the initial court ruled that he did not have an actionable claim); *Gains v. Harman*, 148 Ohio App. 3d 357 (7th Dist. 2002) (summary judgment affirmed on plaintiff's vexatious litigator claim where the defendant previously had filed nine meritless civil suits raising different allegations against different defendants); *Castrataro v. Urban*, 155 Ohio App. 3d 597 (5th Dist. 2003) (affirming summary judgment on doctor's counterclaim and labelling plaintiff a vexatious litigator where she filed four separate civil actions – three in state court and one in federal court – arising out of the same alleged malpractice); *Borger v. McErlane*, No. C-010262, 2001 Ohio 4030, 2001 Ohio App. LEXIS 5544 (1st Dist. Dec. 14, 2001) (plaintiff constituted a vexatious litigator where she filed nearly identical state and federal civil actions and engaged in vexatious conduct in prosecuting those actions).

7. There is no genuine issue of material fact in dispute, and the Court finds as a matter of law that Plaintiffs Anthony Jerdine and Darryl Jerdine are vexatious litigators.

8. The Court's conclusion is based primarily on Plaintiffs' repeated filings of and actions in civil actions and appeals in state court. The Court considered Plaintiffs' filing of and actions in federal civil actions and appeals as habit evidence pursuant to Evidence Rule 406—such—evidence is relevant to show that Plaintiffs acted in conformity with their habit of filing

groundless claims and appeals merely to harass Defendants and others. See *Borger*, 2001 Ohio App. LEXIS 5544 at *12-14.

9. In accordance with Ohio Revised Code § 2323.52(D), Plaintiffs are prohibited from instituting or continuing any legal proceedings, or making any application in any legal proceedings, in the court of claims or in any court of common pleas, municipal court, or county court without first obtaining leave of this Court.

10. Plaintiffs also are prohibited from instituting or continuing any legal proceedings in a court of appeals without first obtaining leave from the court of appeals pursuant to Ohio Revised Code § 2323.52(F)(2).

11. The Court's decision does not affect Plaintiffs' right to appeal their classification as vexatious litigators.

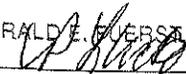
IT IS SO ORDERED.

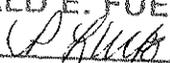


JUDGE DICK AMBROSE

RECEIVED FOR FILING

JAN 23 2012

GERALD E. FUERST, CLERK
By  Deputy

THE STATE OF OHIO Cuyahoga County	} I, GERALD E. FUERST, CLERK OF SS, 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 	
dated <u>1-23-12</u>	
NOW ON FILE IN MY OFFICE.	
WITNESS MY HAND AND SEAL OF SAID COURT THIS <u>23</u>	
DAY OF <u>Jan</u> A.D. 20 <u>12</u>	
GERALD E. FUERST, Clerk	
By 	Deputy