

COURT OF COMMON PLEAS
ENTER
HON ALISON HATHEWAY
THE CLERK SHALL SERVE NOTICE
TO PARTIES PURSUANT TO CIVIL
RULE 58 WHICH SHALL BE TAXED
AS COSTS HEREIN.

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

DELTON BLAIR,
Plaintiff,

-vs.-

GREYHOUND,
Defendant.

ENTERED
SEP 18 2024



CASE NO. A 2401565

JUDGE ALISON HATHEWAY

**ENTRY DECLARING
PLAINTIFF DELTON
BLAIR A VEXATIOUS
LITIGATOR AND
GRANTING
DEFENDANT'S MOTION
FOR SUMMARY
JUDGMENT**

This matter is before the Court upon Gloria's Travel, LLC, d/b/a Greyhound's Motion for Summary Judgment, filed on July 18, 2024. The Court, having considered the Motion, without opposition from Plaintiff, and being fully apprised of the relevant facts and laws, finds Defendant's Motion to be well taken. The Court hereby **GRANTS** Defendant's Motion for Summary Judgment its counterclaim and finds Plaintiff, Delton Blair, to be a vexatious litigator pursuant to R.C. 2323.52.

BACKGROUND

Plaintiff brought this lawsuit against Defendant alleging that after he purchased a bus ticket in June 2023, his bus was canceled and he was not offered a refund. However, Plaintiff had already brought this same case, filed on June 28, 2023 and with the same set of facts, which was dismissed, with prejudice, by Judge Branch of the Hamilton County Court of Common Pleas on November 8, 2023. Therefore, this Court granted Defendant's Motion for Judgment on the Pleadings on May 16, 2024.

In addition to its Motion for Judgment on the Pleadings, Defendant brought a counterclaim against Plaintiff, asking this Court to designate Plaintiff as a vexatious

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COURT, HAMILTON COUNTY, OHIO
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litigator under R.C. 2323.52. Plaintiff never filed an answer to Defendant's counterclaim. Before this Court now is Defendant's Motion for Summary Judgment on this counterclaim, which Plaintiff did not respond to.

LAW AND ANALYSIS

A. Summary Judgment Standard

Under Civ. R. 56(C), “[s]ummary judgment is proper when there exists no genuine issue of material fact, the party moving for summary judgment is entitled to judgment as a matter of law, and the evidence, when viewed in favor of the nonmoving party, permits only one reasonable conclusion that is adverse to that party.” *Collett v. Sharkey*, 1st Dist. Hamilton No. C-200446, 2021-Ohio-2823 ¶ 8.

The moving party carries the initial burden of informing the court of the basis for the motion and identifying those portions of the record that set forth specific facts that demonstrate its entitlement to summary judgment. *Dresher v. Burt*, 75 Ohio St.3d 280, 292-293, 662 N.E.2d 264 (1996). If the moving party fails to meet this burden, summary judgment is not appropriate. If the moving party meets this burden, summary judgment is appropriate only if the nonmoving party fails to meet its reciprocal burden setting forth specific facts establishing that a genuine issue exists for trial. *Id.* at 293, 662 N.E.2d 264. “[T]he opposing party may not rest upon mere allegation in the pleadings but must respond with affidavits or other appropriate materials to show that there is a genuine issue of fact for trial.” *9900 Timbers Dr. Investment LLC v. Nan Li*, 1st Dist. Hamilton No. C-190224, 2020-Ohio-1473, ¶ 8.

B. Vexatious Litigator Statute

R.C. 2323.52 “allows a party that has repeatedly encountered vexatious conduct to have the offending person declared a ‘vexatious litigator.’”

City of Madeira v. Oppenheimer, 1st Dist. Hamilton No. C-200458, 2021-Ohio-2958, ¶ 5. A two-pronged test exists to determine whether a court may declare someone a vexatious litigator: (1) the person must have “engaged in vexatious conduct in a civil action or actions” and (2) such vexatious conduct must have been “habitual, persistent, and without reasonable grounds.” *Id.* at ¶ 7, *see also* R.C. 2323.52(A)(3). Additionally, the First District Court of Appeals has determined these elements must be established by clear and convincing evidence. *Id.*

“Vexatious conduct” is “conduct of a party in a civil action’ that: (a) ‘obviously serves merely to harass or maliciously injure another party to the civil action’; (b) ‘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) ‘is imposed solely for delay.’” *Id.* at ¶ 10, quoting R.C. 2323.52(A)(2). Vexatious conduct includes the “consistent repetition of arguments and legal theories that have been rejected by the court numerous times.” *Stephens v. Downtown Property Mgt.*, 1st Dist. Hamilton No. C-220332, 2023-Ohio-1988, ¶ 19, quoting *Prime Equip. Group, Inc. v. Schmidt*, 2016-Ohio-3472, 66 N.E.3d 305, ¶ 40 (10th Dist.).

For conduct to be habitual, it need not to encompass multiple cases. *City of Madeira* at ¶ 25, citing *Prime Equip* at ¶ 40-41. Rather, “[i]t is the nature of the conduct, not the number of actions, which determines whether a person is a “vexatious litigator””. *Uh Oh Ohio, LLC v. Buchanan*, 1st Dist. Hamilton No. C-230118, 2024-Ohio-11, ¶ 12, quoting *Stephens* at ¶ 19. Habitual has been defined as “of the nature of a habit; according to habit; established by or repeated by force of habit’ or ‘doing, practicing, or acting in some matter by force of habit; customarily doing a certain thing.” *Prime Equip.* at ¶ 40-41, quoting *Davie v. Nationwide Ins. Co. of America*, 8th Dist. Cuyahoga No.

105261, 2017-Ohio-7721, ¶ 63, Webster's Third New International Dictionary 1017 (1993).

C. Defendant is entitled to summary judgment on its counterclaim to declare Delfon Blair a vexatious litigator.

Because Plaintiff has failed to respond to Defendant's Counterclaim, in turn, he has admitted to all allegations asserted, and no dispute exists. *See* Civ. R. 8(D) ("Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading."). However, had Plaintiff responded and denied Defendant's Counterclaim, the Court cannot deny that his conduct is vexatious.

To determine what constitutes vexatious conduct, the Court may look at actions filed, and to a litigant's conduct in other cases. *Stephens v. Downtown Prop. Mgmt., Inc.*, 2023-Ohio-1988, ¶ 19 and *Prime Equip. Group, Inc. v. Schmidt*, 2016-Ohio-3472, 66 N.E.3d 305, ¶ 41 (10th Dist.). Plaintiff has already been declared a vexatious litigator in the United States District Court for the Southern District of Ohio. *See Blair v. Hamilton Cnty. Justice's Ctr.*, Case No. 1:22-cv-77, 2022 U.S. Dist. LEXIS 118217, *2 (S.D. Ohio July 5, 2022). Further, another federal court has flagged his behavior, stating that "his conduct evidences his bad faith and constitutes an abuse of the judicial process." *See Blair v. Ky. Corr. Psychiatric Ctr.*, CIVIL ACTION NO. 17-191-DLB, 2017 U.S. Dist. LEXIS 220180 (E.D. Ky. Nov. 15, 2017).

In the Hamilton County Court of Common Pleas, Plaintiff, *pro se*, has filed at least eighteen (18) cases against various defendants since 2019 – none of which survived the pleading stage. Def. Memo. in Support at 5. For example, Plaintiff filed a lawsuit against Wendy's, seeking \$250,000 in damages because an employee "made a mistake" with his

order twice. *See Blair v. Wendy's*, Case No. A 2303301. Further, in that case, the docket shows Mr. Blair has repeatedly filed motions for default judgment, despite Magistrate Berding's decision denying his motion and Judge Luebbers's entry adopting Magistrate Berding's decision. Vexatious conduct includes the "consistent repetition of arguments and legal theories that have been rejected by the court numerous times," which perfectly describes Plaintiff's conduct at issue here. *Stephens* at ¶ 19, quoting *Prime* at ¶ 40.

In the present case, which was already dismissed with prejudice by Judge Branch, Plaintiff sought \$1,000,000 in damages because he claimed he did not receive a refund from Defendant for his bus ticket. In this case and others before different courts, Plaintiff's claims have persistently been "[un]warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law." Further, as Defendant argues, Plaintiff's meritless lawsuits serve to harass or maliciously injure the defendants. Because of this, and in light of other courts' rulings, no genuine dispute of material fact remains and Defendant is entitled to judgment as a matter of law.

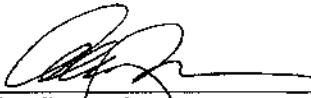
CONCLUSION

Defendant's Motion for Summary Judgment on its counterclaim to declare Plaintiff Delfon Blair a vexatious litigator is hereby **GRANTED**. Pursuant to R.C. 2323.52(D), it is the order of this Court that Plaintiff Delfon Blair is a vexatious litigator and he shall be prohibited from the following without first obtaining leave of court to proceed: (1) instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court; (2) continuing any legal proceedings that the vexatious litigator instituted in any of the courts specified herein prior to this order; and (3) making any application, other than an application for leave to proceed under R.C.

2323.52(F)(1), in any legal proceedings instituted by the vexatious litigator or another person in any of the courts specified herein. R.C. 2323.52(D)(1)(a)-(c).

The Clerk of Courts shall send a certified copy of this Order to the Supreme Court of Ohio for publication deemed appropriate for enforcement of this order.

IT IS SO ORDERED.



Judge Alison Hatheway



**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

**COURT OF COMMON PLEAS
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HON. ROBERT A. GOERING
THE CLERK SHALL SERVE NOTICE
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DELTON BLAIR, : **Case No. A2404390**
 : **JUDGE ROBERT GOERING**
Plaintiff, :
-v- : **ORDER OF DISMISSAL**
T MOBILE, :
Defendant. :

ENTERED
OCT 10 2024

This matter came before the Court on Plaintiff's Complaint. On September 18, 2024 in Case No. A2401565, Plaintiff has been declared a vexatious litigator pursuant to R.C. 2323.52.

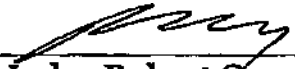
"Vexatious litigator" means any person who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions, whether in the court of claims or in a court of appeals, court of common pleas, municipal court, or county court, whether the person or another 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." R.C. 2323.52(A)(3).

If the person is found to be a vexatious litigator, subject to division (D)(2) of this section, the court of common pleas may enter an order prohibiting the vexatious litigator from "instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court." R.C. 2323.52(D)(1)(a).

Plaintiff filed this present case on October 1, 2024 without first seeking leave of the Court.

Thus, Plaintiff's Complaint is **DISMISSED**.
IT IS SO ORDERED.

FOR COURT USE ONLY
S. C. Line #: 18



Judge Robert Goering

10/10/24

Date