

ENTERED
SEP 30 2024

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

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MELISSA POWERS,
PROSECUTING ATTORNEY OF
HAMILTON COUNTY, OHIO,

Case No. A2401759

JUDGE ROBERT A. GOERING

Plaintiff,

ENTRY FINDING

-v-

KIMBERLY EDELSTEIN

KIMBERLY EDELSTEIN,

A VEXATIOUS LITIGATOR

Defendant.

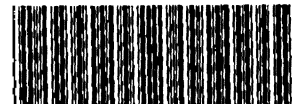
This matter coming before the Court for final hearing on September 26, 2024 and after reviewing all the filings, arguments, and applicable law, the Court declares Kimberly Edelstein a vexatious litigator.

“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).

In a recent Court of Appeals case, the 1st District noted a vexatious litigator is: “any person who habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions. Further, [i]t is the nature of the conduct, not the number of actions, which determines whether a person is a ‘vexatious litigator.’” *Stephens*, 1st Dist. Hamilton No. C-220332, 2023-Ohio-1988, at ¶ 19. The number of actions, however, may be relevant to the determination of whether a person “habitually and persistently engages in vexatious conduct.” *Id.*



A TRUE COPY ATTEST
CLERK OF THE HAMILTON COUNTY
COURT, HAMILTON COUNTY, OHIO
[Signature] DEPUTY



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Such vexatious conduct includes “filing unnecessary, inappropriate or supernumerary pleadings and motions which raise or re-raise arguments that have been repeatedly rejected by the courts.” *Id.*, quoting *Howdyshell v. Battle*, 5th Dist. Morgan No. 19AP0001, 2019-Ohio-5232, ¶ 18. Vexatious Conduct also includes the “consistent repetition of arguments and legal theories that have been rejected by the court numerous times.” *Id.*, quoting *Prime Equip. Group, Inc. v. Schmidt*, 2016-Ohio-3472, 66 N.E.3d 305 ¶ 40 (10th Dist.). *Uh Oh Ohio, LLC v. Buchanan*, 2024-Ohio-11, ¶ 18.

The following are recent actions filed by Defendant Edelstein—many of which were duplicative, not brought within the particular court’s jurisdiction, or dismissed as meritless. Numerous were targeted specifically at Judge Ann B. Flottman, including several identical affidavits of disqualification, which none were sustained.

	Case Number	Court	Opposing Party	Outcome
1	C 2200626	Court of Appeals	Elliott Edelstein	Dismissal Upheld
2	C 2300346	Court of Appeals	Judge Anne B. Flottman	Dismissed
3	C 2400005	Court of Appeals	Elliott Edelstein	Dismissed
4	C 2400044	Court of Appeals	Elliott Edelstein	Pending
5	C 2400083	Court of Appeals	Judge Anne B. Flottman	Dismissed
6	C 2400127	Court of Appeals	Elliott Edelstein	Consolidated with C2400044
7	C 2400191	Court of Appeals	Judge Anne B. Flottman	Dismissed
8	C 2400279	Court of Appeals	Hamilton County Job and Family Services, et. al.,	Pending
9	23AP103	Supreme Court of Ohio	In re Disqualification of Hon. Anne Flottman	Disqualification Denied
10	24AP011	Supreme Court of Ohio	In re Disqualification of Hon. Anne Flottman	Disqualification Denied
11	24AP038	Supreme Court of Ohio	In re Disqualification of Hon. Anne Flottman	Disqualification Denied

12	24AP069	Supreme Court of Ohio	Judge Anne B. Flottman	Denied
13	24AP071	Supreme Court of Ohio	Judge Anne B. Flottman	Denied
14	24AP109	Supreme Court of Ohio	Judge Anne B. Flottman	Denied
15	2024-0281	Supreme Court of Ohio	Judge Anne B. Flottman	Dismissed
16	A2401680	Hamilton County Court of Common Pleas	Hamilton County Job and Family Services, et. al.,	Dismissed
17	23CV754	United States District Court – Southern District of Ohio	Judge Anne B. Flottman	Dismissed

Specifically noted in case C-240044 in the Court's Entry Denying Appellant's Emergency Motion to Correct the Record the Court states, "Appellant is cautioned that future successive, repetitive filings may result in sanctions, up to and including a finding that appellant is a vexatious litigator, pursuant to Loc.R. 23."

In this pending case, Defendant has filed multiple, repetitive filings. Defendant has filed:

1. Motion to dismiss filed 6/13/2024
2. Motion to change venue filed 6/13/24
3. Objection and motion to vacate case scheduling conference filed 6/23/24
4. Motion for extension of time to file late reply filed 7/12/24
5. Reply in support of motion to dismiss and motion to change venue filed 7/12/24
6. Motion for extension of time and motion for continuance filed 8/13/24
7. Motion for telephone appearance filed 8/14/24
8. Motion for partial reconsideration of motion to dismiss filed 8/19/24

The parties were then notified in the Court's September 3, 2024 Order that no further continuances would be granted and the parties were to appear in-person to a hearing scheduled for September 26, 2024 at 1:00 PM. Defendant continued to file:

9. Motion to appear virtually for hearing filed 9/13/24
10. Emergency motion to recuse, or in the alternative, motion for reconsideration of motion to appear virtually and motion for continuance filed 9/23/24
11. Emergency motion to dismiss filed 9/25/24
12. Emergency motion for reconsideration filed 9/25/24
13. Reply in support of emergency motion to dismiss filed 9/25/24

It should also be noted Defendant attempted to subpoena Melissa Powers, County Prosecutor; Amy Stone, Assistant Disciplinary Counsel; and Heather Cady for the September 26, 2024 hearing. These filings were done untimely and clearly not for any legitimate legal purpose (especially since Defendant did not even appear at the hearing).

A hearing was held on the record on September 26, 2024. Defendant failed to appear.

As a result, by default and due to the numerous repetitive filings, the Court finds that Ms. Edelstein is a vexatious litigator as defined within ORC 2323.52. It is the order of this Court, that Kimberly Edelstein as outlined by ORC 2323.52(D) shall be prohibited from doing the following without first obtaining the leave of the Hamilton County Court of Common Pleas to proceed: (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 the vexatious litigator had instituted in any of the courts specified in the above paragraph (a) prior to the entry of this order; (c) Making any application, other than an application for leave to proceed under ORC 2323.52(F)(1), in any legal

proceedings instituted by the vexatious litigator or another person in any of the courts specified in paragraph (a).

IT IS SO ORDERED.



Judge Robert Goering

9/27/24

Date