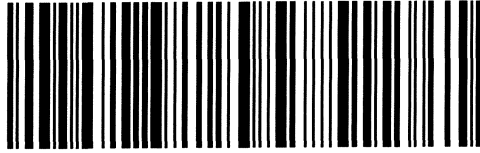


NAILAH K. BYRD
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Case# CV24107538



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

MYRON GRACE, Plaintiff.)	CASE NO. CV-24-107538
)	
v.)	JUDGE SHERRIE MIDAY
)	
EXETER FINANCE, LLC)	<u>ORDER AND OPINION</u>
Defendants.)	
)	
)	
)	

This matter is before the Court on the following: Defendant Exeter Finance LLC’s Motion for Default and/or Summary Judgment, filed 03/14/2025. Plaintiff did not file a brief in opposition.

I. BACKGROUND

This action was filed by Plaintiff on November 20, 2024 against three defendants including Exeter Finance, LLC. On December 19, 2024 Defendant Exeter Finance, LLC filed an Answer and Counterclaim seeking and order declaring Plaintiff to be a vexatious litigator pursuant to R.C. 2323.52.

On December 19, 2024, Defendants filed a Motion for Judgment on the Pleadings. On February 26, 2025, this Court granted Defendants’ Motion. This ruling dismissed all claims in Plaintiff’s Complaint. The only remaining claim is Defendant Exeter Finance, LLC’s Vexatious Litigator Counterclaim.

II. LAW/ ANALYSIS

Under Civil Rule 56(C), “summary judgment is properly granted when (1) there is no genuine issue as to any material fact; (2) the moving party is entitled to judgment as a matter of law; and (3) reasonable minds can come to but one conclusion, and that conclusion is adverse to the party against whom the motion for summary judgment is made.” *Dueck v. Clifton Club Co.*, 95 N.E.3d

1032, 36, 2017-Ohio-7161 (6th Dist.) (citing *Harless v. Willis Day Warehousing Co.*, 54 Ohio St. 2d 64, 66, 375 N.E.2d 46 (1976)). When the moving party satisfies "its initial burden, the nonmoving party then has a reciprocal burden outlined in Civ. R. 56(E) to set forth specific facts showing that there is a genuine issue for trial and, if the nonmovant does not so respond, summary judgment, if appropriate, shall be entered against the nonmoving party." *Id.* (quoting *Dresher v. Burt*, 75 Ohio St.3d 280, 293, 662 N.E.2d 264 (1996)).

Ohio's vexatious litigator statute, Ohio Revised Code Section 2323.52, allows a person who has "defended against habitual and persistent vexatious conduct" to ask a trial court to declare the person who engaged in that conduct a vexatious litigator. R.C. 2323.52(B), *Davie v. Nationwide Ins. Co. of Am.*, 2017-Ohio-7721, P36, 2017 Ohio App. LEXIS 4055, 2017 WL 4176970. An action to declare a person a vexatious litigator may be brought while the civil action or actions in which the habitual and persistent vexatious conduct occurred are still pending or within one year after the termination of the civil action or actions in which the habitual and persistent vexatious conduct occurred. *Id.* A civil action to have a person declared a vexatious litigator proceeds "as any other civil action." R.C. 2323.52(C).

To declare a person a "vexatious litigator," it must be found that the person "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 determining whether a party is a vexatious litigator, the trial court may consider the party's conduct in other, older cases as well as his or her conduct in the case in which the vexatious litigator

claim is brought. *Davie v. Nationwide Ins. Co. of Am.*, 2017-Ohio-7721, P41, 2017 Ohio App. LEXIS 4055, 2017 WL 4176970 *citing.*, *Catudal v. Netcare Corp.*, 10th Dist. Franklin No. 15AP-133, 2015-Ohio-4044, ¶ 8; *see also Prime Equip. Grp.*, 2016-Ohio-3472, 66 N.E.3d 305, at ¶ 20 (finding no "restriction" on the trial court's reliance on conduct occurring in cases that terminated more than one year before plaintiff filed its vexatious litigator complaint in determining that party was a vexatious litigator); *Buoscio v. Macejko*, 7th Dist. Mahoning No. 00-CA-00138, 2003-Ohio-689, ¶ 33 ("Under R.C. 2323.52(A)(3), a person's behavior in prior civil actions can also form the basis for declaring him a vexatious litigator."); *Georgeadis v. Dials*, 10th Dist. Franklin No. 99AP-232, 1999 Ohio App. LEXIS 5848, (Dec. 9, 1999) (affirming trial court's decision to declare appellant a vexatious litigator where her vexatious conduct was demonstrated by her actions in both the current action and prior actions).

The Court finds that Defendant Myron Grace is a vexatious litigator as defined in R.C. 2323.52 as he has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in the filing of civil actions. Defendant has filed twenty-eight separate lawsuits in this Court. Defendant filed thirteen separate lawsuits in this Court in 2024 alone. Many of these lawsuits, as in this case, are re-filed lawsuits that were previously dismissed in the defendants' favor without alleging any additional facts or acknowledging the prior action.

III. CONCLUSION

In viewing the facts and the construing the evidence in the light most favorable to Defendants as the non-moving party, there are no genuine issues of material fact and reasonable minds could only come to one conclusion: Defendant Exeter Finance, LLC is entitled to judgment as a matter of law under Civ. R. 56(C) on the Vexatious Litigator claim.

