

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

IDUNA BORGER,

PLAINTIFF,

v.

MARY McERLANE,

DEFENDANT

: CASE NO. A-0005532

:
: JUDGE FRED J. CARTOLANO



JUDGMENT ENTRY AND ORDER:

**GRANTING DEFENDANT MARY McERLANE'S MOTION FOR SUMMARY
JUDGMENT ON HER COUNTERCLAIM PURSUANT TO R.C. 2323.52,
AND**

**DECLARING PLAINTIFF IDUNA BORGER A VEXATIOUS LITIGATOR
PURSUANT TO R.C. 2323.52.**

For good cause shown and being fully advised in the premises, the Court finds Defendant/Counter-Plaintiff Mary McErlane's Motion for Summary Judgment on Counterclaim Pursuant to R.C. 2323.52 to be well taken. Mary McErlane properly commenced her Counterclaim Pursuant to R.C. 2323.52, while this action was still pending, to have Iduna Borger declared a vexatious litigator for her habitual and persistent vexatious conduct in this action.

There is no genuine issue of material fact that in the course of the proceedings herein, Plaintiff/Counter-Defendant Iduna Borger has, while representing herself *pro se*, engaged in conduct which obviously served merely to harass or maliciously injure Mary McErlane; conduct not warranted under existing law and that cannot be supported by a

good faith argument for an extension, modification, or reversal of existing law; and conduct imposed solely for delay. Accordingly, the Court finds Mary McErlane to be entitled to judgment as a matter of law that Iduna Borger has engaged in Vexatious Conduct as defined in R.C. 2323.52(A)(2).

The Court further finds that there is no genuine issue of material fact that, while representing herself *pro se*, Iduna Borger has habitually, persistently, and without reasonable grounds engaged in Vexatious Conduct in this action. Accordingly the Court finds Mary McErlane to be entitled to judgment as a matter of law that Iduna Borger is a Vexatious Litigator as defined in R.C. 2323.52(A)(3).

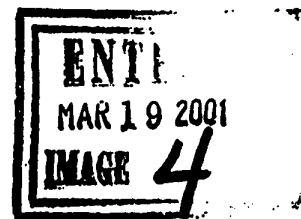
The Court Orders that unless Iduna Borger first obtains leave of this Court to institute a legal proceeding or an application based upon reasonable grounds and which is not an abuse of the process, she is prohibited from:

Instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court;

Continuing any legal proceedings that she had instituted in the court of claims or in a court of common pleas, municipal court, or county court prior to the entry of this order; or

Making any application in any legal proceedings instituted by the vexatious litigator or another person in the court of claims or in a court of common pleas, municipal court, or county court except an application to this Court pursuant to R.C. 2323.52(F) for leave for the institution or continuance of, or the making of an application in, legal proceedings in the court of claims or in a court of common pleas, municipal court.

The Court further Orders that during the period of time that this Order is in force, no appeal by Iduna Borger shall lie from a decision of this Court that denies her leave, pursuant to R.C. 2323.52(F), for the institution or continuance of, or the making of an



application in, legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court.

The Court further Orders the Clerk of Court shall send a certified copy of this Order to the Supreme Court of Ohio for publication in a manner that the Supreme Court of Ohio determines is appropriate and that will facilitate the clerk of the court of claims and a clerk of a court of common pleas, municipal court, or county court in refusing to accept pleadings or other papers submitted for filing by Iduna Borger who has been found to be a Vexatious Litigator pursuant to R.C. 2323.52 if she has failed to obtain leave to proceed pursuant to R.C. 2323.52(F).

The Court further Orders that whenever it appears by suggestion of the parties or otherwise that Iduna Borger has instituted, continued, or made an application in legal proceedings without obtaining leave, pursuant to R.C. 2323.52(F), to proceed from this Court, the court in which the legal proceedings are pending shall dismiss the proceedings or application of Iduna Borger. This Order shall remain in force indefinitely unless and until modified by this Court.

Date: _____

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(513) 977-4211
Trial Attorney for Plaintiff/
Counter-Defendant, Iduna Borger

STATE OF OHIO
COURT OF COMMON PLEAS
THIS IS TO CERTIFY THAT THE FOREGOING
IS A TRUE AND CORRECT COPY OF THE
DOCUMENT ON FILE IN THIS OFFICE ENTERED
March 19 2001

WITNESS MY HAND AND SEAL OF SAID COURT
THIS *March 20 2001*
MELISSA CISSELL, CLERK OF COURTS
Melissa Cissell
DEPUTY CLERK

ENTER
So Ordered,

MAR 19 2001

FRED J. CARTOLANO

Fred J. Cartolano
0062569

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Matthew V. Brammer (0062569)
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Trial Attorneys for Defendant/
Counter-Plaintiff, Mary McElane

COURT OF COMMON PLEAS
ENTER
HON. FRED J. CARTOLANO
THE CLERK SHALL SERVE NOTICE
TO PARTIES PURSUANT TO CIVIL
RULE 59 WHICH SHALL BE TAXED
AS COSTS HEREIN.

ENTERED
MAR 19 2001
IMAGE 5